



# भारत का राजपत्र

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सं. 40 ]

नई दिल्ली, सितम्बर 30—अक्टूबर 6, 2012, शनिवार/आश्विन 8—आश्विन 14, 1934

No. 40 ]

NEW DELHI, SEPTEMBER 30—OCTOBER 6, 2012, SATURDAY/ASVINA 8—ASVINA 14, 1934

भाग में धिन पृष्ठ संख्या दी जाती है जिससे कि यह पृथक संकलन के रूप में रखा जा सके

Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)

PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं  
Statutory Orders and Notifications Issued by the Ministries of the Government of India  
(Other than the Ministry of Defence)

कार्मिक, लोक शिकायत तथा पेंशन मंत्रालय

(कार्मिक और प्रशिक्षण विभाग)

नई दिल्ली, 25 सितम्बर, 2012

का. आ. 3045.—केंद्रीय सरकार एतद्वारा दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का अधिनियम सं. 25) की धारा 6 के साथ पठित धारा 5 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए राजस्थान राज्य सरकार, गृह (ग्रेड-V) विभाग, जयपुर की अधिसूचना सं. एफ/19 (13)/गृह-5/2011 दिनांक 21 दिसंबर, 2011 द्वारा प्राप्त सहमति से पुलिस स्टेशन गोपालगढ़, जिला-भरतपुर (राजस्थान) में भारतीय दंड संहिता, 1860 (1860 का अधिनियम सं. 45) की धारा 147, 148, 149, 153-ए, 354, 336, 436, 379 और 120-बी के अधीन पंजीकृत मामला सं. 149/11 का तथा उपर्युक्त उल्लिखित अपराध के संबंध में या उससे संबंध प्रयास, दुष्प्रेरण तथा षडयंत्र तथा उसी संव्यवहार के क्रम में या उन्हीं तथ्यों से उद्भूत किसी अन्य अपराध या अपराधों का अन्वेषण करने के लिए दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों और क्षेत्राधिकार का विस्तार सम्पूर्ण राजस्थान राज्य के सम्बन्ध में करती है।

[फा.सं. 225/65/2011-एवीडी-II]

राजीव जैन, अवर सचिव

MINISTRY OF PERSONNEL, PUBLIC  
GRIEVANCES AND PENSIONS

(Department of Personnel and Training)

New Delhi, the 25th September, 2012

S.O. 3045.—In exercise of the powers conferred by sub-section (1) of section 5 read with section 6 of the Delhi Special Police Establishment Act, 1946 (Act No. 25 of 1946), the Central Government with the consent of the State Government of Rajasthan, Home (Gr. V) Department, Jaipur vide Notification F. 19(13) Home-5/2011 dated 21st December, 2011, hereby extends the powers and jurisdiction of the members of the Delhi Special Police Establishment to the whole of the State of Rajasthan for investigation of Case No. 149/11. under sections 147, 148, 149, 153-A, 354, 336, 436, 379 and 120-B of the Indian Penal Code, 1860 (Act No. 45 of 1860) registered at Police Station Gopalgarh, District Bharatpur (Rajasthan) and attempts, abetments and conspiracies in relation to or in connection with the above mentioned offences and any other offence or offences committed in course of the same transaction or arising out of the same facts.

[F. No. 228/65/2011-AVD-II]

RAJIV JAIN, Under Secy.

नई दिल्ली, 26 सितम्बर, 2012

का.आ. 3046.—केन्द्रीय सरकार एतद्वारा दंड प्रक्रिया संहिता, 1973 (1974 का अधिनियम सं. 2) की धारा 24 की उप-धारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उत्तराखंड उच्च न्यायालय, नैनीताल में अपराध अपील सं. 491/07, 507/07, 517/07, 529/07 तथा आर.सी. 7 (एस)/2003-एस.आई.सी.-4/एन.डी. (सुश्री मधुमिता शुक्ला हत्या केस) से उत्पन्न अपील सं. 31/08 के संबंध में तथा अन्य मामले जो उनसे सम्बद्ध हो तथा उनसे प्रासंगिक हो, उनके संबंध में के.अ.ब्यूरो की ओर से मामलों के संचालन हेतु श्री सिद्धार्थ लुथरा, एडवोकेट को केंद्रीय अन्वेषण ब्यूरो के विशेष लोक अभियोजक के रूप में नियुक्त करती है।

[फा.सं. 225/10/2012-ए.वी.डी.-II]

राजीव जैन, अवर सचिव

New Delhi, the 26th September, 2012

S.O. 3046.—In exercise of the powers conferred by sub-section (8) of section 24 of the Code of Criminal Procedure, 1973 (Act No. 2 of 1974), the Central Government hereby appoints Shri Sidharth Luthra, Advocate as Special Public Prosecutor in Criminal Appeals Nos. 491/07, 507/07, 517/07, 529/07 and 31/08 arising out of RC 7(S)/2003-SIC.IV/ND (Ms Madhumita Shukla murder case) in the Uttarakhand High Court at Nainital and other matters connected therewith and incidental thereto.

[F.No. 225/10/2012-AVD-II]

RAJIV JAIN, Under Secy.

कार्यालय, मुख्य आयकर आयुक्त

जयपुर, 17 सितम्बर, 2012

सं. 07/2012-13

का.आ. 3047.—आयकर नियम, 1962 के नियम 2 सी ए के साथ पठनीय आयकर अधिनियम, 1961 (1961 का 43वां) की धारा 10 के खण्ड (23 सी) की उपधारा (vi) के द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मुख्य आयकर आयुक्त, जयपुर एतद्वारा निर्धारण वर्ष 2012-13 एवं आगे के लिये कथित धारा के उद्देश्य से भारतीय सामाजिक विकास समिति जयपुर को स्वीकृति देते हैं।

2. बशर्ते कि समिति आयकर नियम 1962 के नियम 2 सी ए के साथ पठनीय आयकर अधिनियम, 1961 की धारा 10 के उपखण्ड (23 सी) की उपधारा (vi) के प्रावधानों के अनुरूप कार्य करे।

[सं. मुआआ/अआआ/(मु.)/जय/10(23सी)(vi)/2012-13]

ब्रजेश गुप्ता, मुख्य आयकर आयुक्त

## OFFICE OF THE CHIEF COMMISSIONER OF INCOME TAX

Jaipur, the 17th September, 2012

No. 07/2012-13

S.O. 3047.—In exercise of the powers conferred by sub-clause (vi) of clause (23C) of Section 10 of the Income-tax Act, 1961 (43 of 1961) read with rule 2CA of the Income-tax Rules, 1962 the Chief Commissioner of Income-tax, Jaipur hereby approves "Bhartiya Samajik Vikas Samiti, Jaipur" for the purpose of said section from A.Y. 2012-13 & onwards.

2. Provided that the society conforms to and complies with the provisions of sub-clause (vi) of clause (23C) of section 10 of the Income-tax Act, 1961 read with rule 2CA of the Income-tax Rules, 1962.

[No. CCIT/JPR/Addl. CIT (Hqrs.)/10(23C)(vi)/2012-13]  
BRIJESH GUPTA, Chief Commissioner of Income-tax

वित्त मंत्रालय

(राजस्व विभाग)

(कार्यालय मुख्य आयुक्त, केन्द्रीय उत्पाद शुल्क, सीमा शुल्क एवं सेवा कर, भोपाल जोन)

भोपाल, 24 सितम्बर, 2012

संख्या 02/2012-सीमा शुल्क (एन.टी.)

का.आ. 3048.—सीमा शुल्क अधिनियम, 1962 की धारा 152 के अन्तर्गत राजस्व विभाग, वित्त मंत्रालय, भारत सरकार द्वारा जारी अधिसूचना संख्या 33/94-सीमा शुल्क (एन.टी.) दिनांक 01-07-94 के अन्तर्गत प्रदत्त शक्तियों का प्रयोग करते हुए, मैं, एस.के.एस. सोमवंशी, मुख्य आयुक्त, केन्द्रीय उत्पाद, सीमा शुल्क एवं सेवाकर, भोपाल क्षेत्र, भोपाल एतद्वारा खसरा नं. 114, 115 एवं 117 ग्राम-बन्धौरा, पोस्ट-कसुआलाल, जिला-सिंगरौली, राज्य-मध्य प्रदेश की भूमि को सीमा शुल्क अधिनियम, 1962 की धारा-9 के अन्तर्गत सीमा शुल्क निजी बंधित भंडारगृह हेतु वेयरहाउसिंग स्टेशन घोषित करता हूँ।

[फा.सं. IV(16)42-Tech/CCO/B7/2012]

एस.के.एस. सोमवंशी, मुख्य आयुक्त

MINISTRY OF FINANCE

(Department of Revenue)

(OFFICE OF THE CHIEF COMMISSIONER  
CUSTOMS, CENTRAL EXCISE & SERVICE TAX,  
BHOPAL ZONE)

Bhopal, the 24th September, 2012

No. 02/2012-CUS (NT)

S.O. 3048.—In exercise of the powers conferred by

Notification No. 33/94-Customs (NT) dated 01-07-1994 of the Government of India, Ministry of Finance, Department of Revenue, New Delhi, as amended, issued under Section 152 of the Customs Act, 1962, I, S.K.S. Somvanshi, Chief Commissioner, Customs, Central Excise & Service Tax, Bhopal Zone, Bhopal hereby declare Khasra Nos. 114, 115 & 117 of Village-Bandhora, Post-Karsualal, Distt-Singrauli in the State of Madhya Pradesh as warehousing station under Section 9 of the Customs Act, 1962 for the Limited purpose of Private Customs Bonded Warehouse.

[F.No. IV(16)42-Tech/CCO/BZ/2012]

S. K. S. SOMVANSHI, Chief Commissioner

( वित्तीय सेवाएं विभाग )

नई दिल्ली, 24 सितम्बर, 2012

का.आ. 3049.—भारतीय स्टेट बैंक अधिनियम, 1955 (1955 का 23) की धारा 19 के खण्ड (घ) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, भारतीय रिजर्व बैंक के परामर्श से, एतद्वारा, श्री हरिचन्द्र बहादुर सिंह (जन्म तिथि: 16-09-1963) को उनकी नियुक्ति की अधिसूचना की तिथि से तीन वर्षों की अवधि के लिए अथवा अगले आदेश होने तक, जो भी पहले हो, भारतीय स्टेट बैंक के केन्द्रीय निदेशक मण्डल में अंशकालिक गैर-सरकारी निदेशक के रूप में नामित करती है।

[फा.सं. 3/30/2010-बीओ-I]

विजय मल्होत्रा, अवर सचिव

(Department of Financial Services)

New Delhi, the 24th September, 2012

S.O. 3049.—In exercise of the powers conferred by clause (d) of Section 19 of the State Bank of India Act, 1955 (23 of 1955), the Central Government, in consultation with Reserve Bank of India, hereby appoints Shri Harichandra Bahadur Singh (DoB: 16-09-1963) as a part-time non-official director on the Central Board of Directors of State Bank of India, for a period of three years, with effect from the date of notification of his appointment or until further orders, whichever is earlier.

[F.No. 3/30/2010-BO-I]

VIJAY MALHOTRA, Under Secy.

नई दिल्ली, 25 सितम्बर, 2012

का.आ. 3050.—राष्ट्रीयकृत बैंक (प्रबंध एवं प्रकीर्ण उपबंध) स्कीम, 1970/1980 के खंड 3 के उपखंड (1) के साथ पठित, बैंककारी

कंपनी (उपक्रमों का अर्जन एवं अंतरण) अधिनियम, 1970/1980 की धारा 9 की उपधारा (3) के खंड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा, श्री मुस्तफा मोहम्मद, निदेशक, वित्तीय सेवाएं विभाग को श्रीमती मधुलिका पी सुकुल के स्थान पर तत्काल प्रभाव से और अगले आदेश होने तक आन्ध्रा बैंक के निदेशक मण्डल में सरकार द्वारा नामित निदेशक के रूप में नामित करती है।

[फा.सं.6/3/2012-बीओ-I]

विजय मल्होत्रा, अवर सचिव

New Delhi, the 25th September, 2012

S.O. 3050.—In exercise of the powers conferred by clause (b) of sub-section (3) of Section 9 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970/1980, read with sub-clause (1) of clause 3 of the Nationalised Banks (Management and Miscellaneous Provisions) Scheme, 1970/1980, the Central Government, hereby nominates Shri Mustafa Mohammad, Director, Department of Financial Services, as Government Nominee Director on the Board of Directors of Andhra Bank with immediate effect and until further orders vice Smt. Madhulika P. Sukul.

[F.No. 6/3/2012-BO-I]

VIJAY MALHOTRA, Under Secy.

नई दिल्ली, 28 सितम्बर, 2012

का.आ. 3051.—जीवन बीमा निगम अधिनियम, 1956 (1956 का 31) की धारा 4 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा, श्री अरविंद मायाराम, सचिव, आर्थिक कार्य विभाग को श्री आरू गोपालन के स्थान पर तत्काल प्रभाव से और अगले आदेशों तक, उक्त निगम के सदस्य के रूप में नियुक्त करती है।

[फा.सं. 14/3/2003-बीमा-IV]

ललित कुमार, निदेशक (बीमा)

New Delhi, the 28th September, 2012

S.O. 3051.—In exercise of the powers conferred by Section 4 of the Life Insurance Corporation Act, 1956 (31 of 1956), the Central Government hereby appoints Shri Arvind Mayaram, Secretary, Department of Economic Affairs as Member of the said Corporation vice Shri R. Gopalan, with immediate effect till further orders.

[F.No. 14/3/2003-Ins. IV]

LALIT KUMAR, Director (Insurance)

## विदेश मंत्रालय

## (सीपीवी प्रभाग)

नई दिल्ली, 5 सितम्बर, 2012

का.आ. 3052.—राजनयिक और कांसलीय ऑफिसर (शपथ और फीस) के अधिनियम, 1948 की धारा 2 के खंड (क) के अनुसरण में केन्द्र सरकार एतद्वारा श्री अमल चौधरी और श्री मनोरंजन साहू सहायकों को सितम्बर, 2012 से भारत के राजदूतावास, वारसा में सहायक कौंसुलर अधिकारी के कर्तव्यों का पालन करने के लिए प्राधिकृत करती है।

[सं.टी. 4330/01/2006]

आर.के. पेरिन्डिया, अवर सचिव (कौंसुलर)

## MINISTRY OF EXTERNAL AFFAIRS

## (CPV DIVISION)

New Delhi, the 5th September, 2012

S.O. 3052.—In pursuance of the clause (a) of the Section 2 of the Diplomatic and Consular Officers (Oaths and Fees) Act, 1948 (41 of 1948), the Central Government hereby authorize Shri Amal Chowdhury and Sri Manoranjan Sahu, Assistants, Embassy of India, Warsaw to perform their duties of Assistant Consular Officers with effect from 5th September, 2012.

[No. T. 4330/01/2006]

R. K. PERINDIA, Under Secy. (Consular)

## उपभोक्ता मामले, खाद्य और सार्वजनिक वितरण मंत्रालय

(उपभोक्ता मामले विभाग)

(भारतीय मानक ब्यूरो)

नई दिल्ली, 30 अगस्त, 2012

का.आ.3053.—भारतीय मानक ब्यूरो नियम, 1987 के नियम 7 के उपनियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिन भारतीय मानकों के विवरण नीचे अनुसूची में दिए गए हैं वे स्थापित हो गए हैं :—

## अनुसूची

क्र. सं.	स्थापित भारतीय मानक (को) की संख्या, वर्ष और शीर्षक	नये भारतीय मानक द्वारा अतिरिक्त भारतीय मानक अथवा मानकों, यदि कोई हो, की संख्या और वर्ष	स्थापित तिथि
(1)	(2)	(3)	(4)
1.	आई एस 1599: 2012/आई एसओ 7438: 2005 धात्विक सामग्री-बंक परीक्षण (तीसरा पुनरीक्षण)	आई एस 1599: 1985	31-07-2012

इस भारतीय मानक की प्रतियां भारतीय मानक ब्यूरो, मानक भवन, 9 बहादुर शाह जफर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों: नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों: अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पुणे तथा तिरुवनन्तापुरम में बिक्री हेतु उपलब्ध हैं।

[संदर्भ: एमटीडी 3/टी-80]

पी. घोष, वैज्ञानिक 'ई' एवं प्रमुख (एमटीडी)

## MINISTRY OF CONSUMER AFFAIRS, FOOD AND PUBLIC DISTRIBUTION

## (Department of Consumer Affairs)

## (BUREAU OF INDIAN STANDARDS)

New Delhi, the 30th August, 2012

S.O. 3053.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that the Indian Standards, particulars of which are given in the Schedule hereto annexed have been established on the date indicated against each:

## SCHEDULE

Sl. No.	No. and Year of the Indian Standards Established	No. and year of Indian Standards, if any, Superseded by the New Indian Standard	Date of Established
(1)	(2)	(3)	(4)
1	IS 1599:2012/ISO 7438:2005 Metallic materials—Bend Test (Third Revision)	IS 1599 : 1985	31-07-2012

Copy of this Standard is available for sale with the Bureau of Indian Standards, Manak Bhavan, 9 Bahadur Shah Zafar Marg, New Delhi- 110 002 and Regional Offices : New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneswar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Thiruvananthapuram.

[Ref. : MTD 3/T-80]

P. GHOSH, Scientist 'E' and Head (MTD)

नई दिल्ली, 11 सितम्बर, 2012

का.आ.3054.—भारतीय मानक ब्यूरो नियम, 1987 के नियम 7 के उपनियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिस भारतीय मानकों का विवरण नीचे अनुसूची में दिया गया है वे स्थापित हो गये हैं :—

## अनुसूची

क्र. सं.	स्थापित भारतीय मानक(कों) की संख्या, वर्ष और शीर्षक	नये भारतीय मानक द्वारा अतिक्रमित भारतीय मानक अथवा मानकों, यदि कोई हो, की संख्या और वर्ष	स्थापित तिथि
(1)	(2)	(3)	(4)
1.	आई एस/आई ई सी 60044-1: 2003 उपस्कर ट्रांसफार्मर भाग 1 करंट उपस्कर ट्रांसफार्मर	—	31 अगस्त, 2012

इन भारतीय मानकों की प्रतियां भारतीय मानक ब्यूरो, मानक भवन, 9 बहादुर शाह जफर मार्ग, नई दिल्ली-110 002, क्षेत्रीय कार्यालयों : नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पुणे तथा तिरुवनन्तापुरम में बिक्री हेतु उपलब्ध हैं।

[संदर्भ : ईटी 34/टी-26]

आर. सी. मैथ्यू, वैज्ञानिक 'एफ' एवं प्रमुख (विद्युत तकनीकी)

New Delhi, the 11th September, 2012

**S.O. 3054.**—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that the Indian Standards, particulars of which are given in the Schedule hereto annexed have been issued:

## SCHEDULE

Sl. No.	No. and Year of the Indian Standards	No. and year of the Indian Standards, if any, Superseded by the New Indian Standard	Date of Established
(1)	(2)	(3)	(4)
1.	IS/IEC 60044 (PART 1) : 2003 Instrument Transformers Part 1 : Current Transformers	—	31 August, 2012

Copies of these Standards are available for sale with the Bureau of Indian Standards, Manak Bhavan, 9 Bahadur Shah Zafar Marg, New Delhi-110 002 and Regional Offices : New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneswar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Thiruvananthapuram.

[Ref. : ET 34/T-26]

R.C. MATHEW, Scientist 'F' and Head (Electrotechnical)

3628 45713-2

नई दिल्ली, 11 सितम्बर, 2012

**का.आ. 3055.**—भारतीय मानक ब्यूरो नियम, 1987 के नियम 7 के उपनियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिस भारतीय मानकों का विवरण नीचे अनुसूची में दिया गया है वे स्थापित हो गये हैं:-

## अनुसूची

क्र. सं.	स्थापित भारतीय मानक(कों) की संख्या, वर्ष और शीर्षक	नये भारतीय मानक द्वारा अतिक्रमित भारतीय मानक अथवा मानकों, यदि कोई हो, की संख्या और वर्ष	स्थापित तिथि
(1)	(2)	(3)	(4)
1.	आई एस/आई ई सी 60079 (भाग 29/अनुभाग 2) : 2007 विस्फोटक वातावरण भाग 29 गैस संसूचक अनुभाग 2 ज्वलनशील गैसों और आक्सीजन के लिए संसूचकों का चयन, संस्थापन, प्रयोग और रखरखाव	—	31 दिसम्बर, 2011

इन भारतीय मानकों की प्रतियां भारतीय मानक ब्यूरो, मानक भवन, 9 बहादुर शाह जफर मार्ग, नई दिल्ली-110 002, क्षेत्रीय कार्यालयों : नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पुणे तथा तिरुवनन्तापुरम में बिक्री हेतु उपलब्ध हैं।

[संदर्भ : ईटी 22/टी-81]

आर. सी. मैथ्यू, वैज्ञानिक 'एफ' एवं प्रमुख (विद्युत तकनीकी)

New Delhi, the 11th September, 2012

**S.O. 3055.**—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that the Indian Standards, particulars of which are given in the Schedule hereto annexed have been issued:

## SCHEDULE

Sl. No.	No. and Year of the Indian Standards	No. and year of the Indian Standards, if any, Superseded by the New Indian Standard	Date of Established
(1)	(2)	(3)	(4)
1.	IS/IEC 60079 (Part 29/Sec 2): 2007 Explosive Atmospheres Part 29 Gas Detectors Section 2 Selection, Use And Maintenance of Detectors for Flammable Gases and Oxygen	—	31 December, 2011

Copies of these Standards are available for sale with

the Bureau of Indian Standards, Manak Bhavan, 9 Bahadur Shah Zafar Marg, New Delhi-110 002 and Regional Offices: New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices: Ahmedabad, Bangalore, Bhopal,

Bhubaneswar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Thiruvananthapuram.

[Ref.: ET 22/T-81]

R.C. MATHEW, Scientist 'F' & Head (Electrotechnical)

नई दिल्ली, 14 सितम्बर, 2012

का.आ. 3056.—भारतीय मानक ब्यूरो (प्रमाणन) विनियम, 1988 के विनियम (4) के उप-विनियम (5) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिन लाइसेंसों के विवरण नीचे अनुसूची में दिए गए हैं, वे स्वीकृत कर दिए गए हैं :-

#### अनुसूची

क्रम संख्या	लाइसेंस संख्या सीएम/एल	स्वीकृत करने की तिथि	लाइसेंसधारी का नाम व पता	भारतीय मानक का शीर्षक	भा मा	भाग	अनु	वर्ष
01.	L-9951506	22-08-2012	मै. कारगिल पाइप्स, अटेली-कनीना मण्डी, बस स्टेशन के पास, सलीमपुर, अटेली मण्डी, जिला महेंद्रगढ़-123021 (हरियाणा)	सिंचाई उपस्कर- स्प्रिंकलर पाइप भाग 2 सहज संयोजी पालीएथिलीन पाइप	14151	02	-	2008
02.	L-9951405	27-08-2012	मै. कलश कनटेनर्स (इण्डिया) प्रा. लि., निज़ामपुर रोड, गांव परनाला, बहादुरगढ़, जिला झज्जर, (हरियाणा)	पानी के भण्डार हेतु प्लास्टिक टैंकियां	12701	-	-	1996
03.	L-9951304	27-08-2012	मै. मंगला पोलिमर्स, रसूलपुर रोड, रेलवे क्रॉसिंग के पास, जिला पलवल-121102 (हरियाणा)	कन्ड्यूट्स फॉर इलेक्ट्रिकल इन्सुलेशन भाग 3 कन्ड्यूट्स ऑफ इन्सुलेटिंग मैटेरियल्स	9537	03	-	1983

[सं. सीएमडी/13:11]

एम. के. जैन, वैज्ञानिक 'एफ' एवं प्रमुख (एफडीओ)

New Delhi, the 14th September, 2012

S.O. 3056.—In pursuance of sub-regulation (5) of the regulation 4 of the Bureau of Indian Standards (Certification) Regulations, 1988, of the Bureau of Indian Standards, hereby notifies the grant of licences particulars of which are given in the following schedule:

#### SCHEDULE

Sl. No.	Licences No. CM/L-Grant Date	Name and Address of the Licensee	Title of the Standard	IS No.	Part.	Sec.	Year
01.	L-9951506	22-08-2012	M/s. Kargil Pipes, Ateli-Kanina Road, Near Bus Stand, Salimpur, Ateli Mandi, Distt. Mahendragarh-123021 Haryana	Irrigation Equipment-Sprinkler Pipes-Part 2 Quick Coupled Polyethylene Pipes	14151	02	- 2008
02.	L-9951405	27-08-2012	M/s. Kalash Containers, (India) Pvt. Ltd., Nizampur Road, Village Parnala, Bahadurgarh, Distt. Jhajjar, Haryana.	Rotational Moulded Polyethylene Water Storage Tanks	12701	-	- 1996
03.	L-9951304	27-08-2012	M/s. Mangla Polymers, Rasulpur Road, Near Railway Crossing, Distt. Palwal-121102 Haryana	Conduits for Electrical Installation Part 3 Rigid Plain Conduits of Insulating Materials	9537	03	- 1983

[No. CMD/13:11]

M.K. JAIN, Scientist 'F' & Head (FDO)

नई दिल्ली, 19 सितम्बर, 2012

New Delhi, the 19th September, 2012

का.आ. 3057.—भारतीय मानक ब्यूरो नियम 1987 के नियम 7 के उपनियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि भारतीय मानक के विवरण नीचे अनुसूची में दिये गये हैं वे स्थापित हो गए हैं :

## अनुसूची

क्र. सं.	स्थापित भारतीय मानक (को) की संख्या वर्ष और शीर्षक	नये भारतीय मानक द्वारा अतिक्रमित भारतीय मानक अथवा मानकों, यदि कोई हो, की संख्या और वर्ष	स्थापित तिथि
(1)	(2)	(3)	(4)
1.	IS 15932 (भाग 1): 2012 विभिन्न प्रकार के लिग्नोसैल्युलोजिक पैनल के चयन और प्रयोग-रीति संहिता: भाग 1 मध्यम घनत्व के पार्टिकल बोर्ड्स	—	31 अगस्त, 2012

इस भारतीय मानक की प्रति भारतीय मानक ब्यूरो मानक भवन, 9 बहादुर शाह जफर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों : नई दिल्ली, कोलकाता चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पुणे तथा तिरुवनन्तापुरम में बिक्री हेतु उपलब्ध हैं।

[संदर्भ: सीईडी/राजपत्र]

डी. के. अग्रवाल, वैज्ञानिक 'एफ' एवं प्रमुख (सिविल इंजीनियरी)

S.O. 3057.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that the Indian Standards, particulars of which are given in the Schedule hereto annexed have been established on the date indicated against each :

## SCHEDULE

Sl. No.	No. and Year of the Indian Standards Established	No. and year of Indian Standards, if any, Superseded by the New Indian Standard	Date when Established
(1)	(2)	(3)	(4)
1.	IS 15932 (Part 1): 2012 Selection and Use of Various types of Lignocellulosic Panel Products -Code of Practice: Part I Medium Density Particle Boards	—	31 August, 2012

Copy of this Standard is available for sale with the Bureau of Indian Standards, Manak Bhavan, 9 Bahadur Shah Zafar Marg, New Delhi -110 002 and Regional Offices: New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices: Ahmedabad, Bangalore, Bhopal, Bhubaneshwar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune and Thiruvananthapuram.

[Ref. : CED/Gazette]

D. K. AGRAWAL, Scientist 'F' &amp; Head (Civil Engg.)

नई दिल्ली, 24 सितम्बर, 2012

का.आ. 3058.—भारतीय मानक ब्यूरो नियम 1987 के नियम 7 के उपनियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिन भारतीय मानकों के संशोधनों के विवरण नीचे अनुसूची में दिए गए हैं वे स्थापित हो गए हैं :—

## अनुसूची

क्रम संख्या	स्थापित भारतीय मानकों के संशोधनों/मानकों की संख्या, वर्ष और शीर्षक	नये भारतीय मानक द्वारा अतिक्रमित भारतीय मानक अथवा मानकों, यदि कोई हो, की संख्या और वर्ष	स्थापित तिथि
(1)	(2)	(3)	(4)
1.	संशोधन संख्या 3 – आई एस 8482:1995 कोलोन – विशिष्ट (पहला पुनरीक्षण)	कुछ नहीं	सितम्बर, 2012
2.	संशोधन संख्या 2 – आई एस 14649:1999 सिंदूर-विशिष्ट	कुछ नहीं	सितम्बर, 2012
3.	संशोधन संख्या 3 – आई एस 11487:1985 सौंदर्य प्रसाधन उद्योग के सोडियम लॉरिल ईथर सल्फेट की विशिष्ट	कुछ नहीं	सितम्बर, 2012

(1)	(2)	(3)	(4)
4.	संशोधन संख्या 4 – आई एस 10655:1999 भाप के रबड़ होज –विशिष्ट	कुछ नहीं	सितम्बर, 2012
5.	संशोधन संख्या 2 – आई एस 3988:1981 ग्वार गम की विशिष्ट (पहला पुनरीक्षण)	कुछ नहीं	अगस्त, 2012
6.	आई एस 3400 (भाग 1): 2012/आई एस ओ 37:2011 चल्कनीकृत रबड़ के लिए परीक्षण पद्धतियां भाग 1 तनन प्रतिबल विकृति गुणधर्म ज्ञात करना (तीसरा पुनरीक्षण)	कुछ नहीं	अगस्त, 2012
7.	आई एस 3400 (भाग 4): 2012/आई एस ओ 188:2011 चल्कनीकृत रबड़ के लिए परीक्षण पद्धतियां भाग 4 त्वरित काल प्रभावन और ताप प्रतिरोधन (तीसरा पुनरीक्षण)	कुछ नहीं	अगस्त, 2012
8.	आई एस 3400 (भाग 6): 2012/आई एस ओ 1817:2011 चल्कनीकृत रबड़ के परीक्षण पद्धतियां भाग 6 तरल का प्रभाव ज्ञात करना (तीसरा पुनरीक्षण)	कुछ नहीं	अगस्त, 2012
9.	आई एस 14648:2011 सौंदर्य प्रसाधन और सौंदर्य प्रसाधन कच्ची सामग्रियों की सूक्ष्म जीव वैज्ञानिक परीक्षा – परीक्षण विधियां (दूसरा पुनरीक्षण)	कुछ नहीं	दिसम्बर, 2011
10.	आई एस 15913:2011/आई एस ओ 4671:2007 रबड़ और प्लास्टिक के होज एवं होज समुच्चय – होजों के आयामों एवं होज समुच्चयों की लम्बाइयां मापने की पद्धतियां	कुछ नहीं	मई, 2011

इन भारतीय संशोधनों/मानकों की प्रतियां भारतीय मानक ब्यूरो, मानक भवन, 9 बहादुर शाह जफर मार्ग, नई दिल्ली-110002 क्षेत्रीय कार्यालयों : नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पुणे तथा तिरुवनन्तापुरम में बिक्री हेतु उपलब्ध हैं ।

[संदर्भ : पीसीडी/जी-7(गजट)]

डा. (श्रीमती) विजय मलिक, वैज्ञानिक 'एफ' एवं प्रमुख (पी सी डी)



New Delhi, the 24th September, 2012

**S. O. 3058.**—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that the amendments Indian Standards, particulars of which are given in the Schedule hereto annexed have been established on the date indicated.

**SCHEDULE**

Sl. No.	No. and year and title of the Indian Standards Established	No. and year of Indian Standards, if any, Superseded by the New Indian Standard	Date of Established
(1)	(2)	(3)	(4)
1.	Amendment No. 3 to IS 8482:1995 Colone—Specification (First Revisions)	None	September, 2012
2.	Amendment No. 2 to IS 14649:1999 Sindoor—Specification	None	September, 2012
3.	Amendment No. 3 to IS 11487:1985 Specification for Sodium Lauryl Ether Sulphate for Cosmetic Industry	None	September, 2012
4.	Amendment No. 1 to IS 10655:1999 Rubber Steam Hose—Specification	None	September, 2012
5.	Amendment No. 2 to IS 3988:1981 Specification for Guar Gum (first revision)	None	August, 2012
6.	IS 3400 (Part 1): 2012/ISO 37:2011 Methods of Test for Vulcanized Rubber Part 1 Determination of Tensile stress-strain Properties (third revision)	None	August, 2012
7.	IS 3400 (Part 4): 2012/ISO 188:2011 Methods of Test for Vulcanized Rubber Part 4 Accelerated Ageing and Heat Resistance (third revision)	None	August, 2012
8.	IS 3400 (Part 6): 2012/ISO 1817:2011 Methods of Test for Vulcanized Rubber Part 6 Determination of the Effect of Liquids (third revision)	None	August, 2012
9.	IS 14648: 2011 Microbiological Examination of Cosmetics and Cosmetic Raw Material—Methods of Test (second revision)	None	December, 2011
10.	IS 15913: 2011/ISO 4671:2007 Rubber and Plastics Hoses and Hoses Assemblies — Methods of Measurement of the Dimensions of Hoses and the Lengths of House Assemblies	None	May, 2011

Copy of these amendments/Standards are available for sale with the Bureau of Indian Standards, Manak Bhavan, 9 Bahadur Shah Zafar Marg, New Delhi - 110 002 and Regional Offices : New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices: Ahmedabad, Bangalore, Bhopal, Bhubaneswar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Thiruvananthapuram.

[Ref. : PCD/G-7 (Gazette)]

Dr. (Mrs.) VIJAY MALIK, Scientist 'F' &amp; Head (PCD)

3628 4713-3

नई दिल्ली, 24 सितम्बर, 2012

New Delhi, the 24th September, 2012

का.आ. 3059.— भारतीय मानक ब्यूरो नियम, 1987 के नियम 7 के उप-नियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिन भारतीय मानकों के विवरण नीचे अनुसूची में दिए गए हैं वे स्थापित हो गए हैं :-

## अनुसूची

क्र. सं.	स्थापित भारतीय मानक (कोई की संख्या वर्ष और शीर्षक)	नये भारतीय मानक द्वारा अतिक्रमित भारतीय मानक अथवा मानकों, यदि कोई हो, की संख्या और वर्ष	स्थापित तिथि
(1)	(2)	(3)	(4)
1	आई एस 1171 : 2011 फेरोमैंगनीज - विशिष्टि (पांचवां पुनरीक्षण)	आई एस 1171 : 1996	25-09-2012

इस भारतीय मानक की प्रतियां भारतीय मानक ब्यूरो, मानक भवन, 9 बहादुर शाह जफर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों: नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पुणे तथा तिरुवान्तापुरम में बिक्री हेतु उपलब्ध हैं ।

[संदर्भ: एमटीडी 5/टी -3]

पी. घोष, वैज्ञानिक 'एफ' एवं प्रमुख (एमटीडी)

S.O. 3059.— In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that the Indian Standards, particulars of which are given in the Schedule here to annexed have been established on the date indicated against each :-

## SCHEDULE

Sl. No.	No. and Year of the Indian Standards Established	No. and year of Indian Standards, if any, Superseded by the New Indian Standard	Date of Establishment
(1)	(2)	(3)	(4)
1	IS 1171 : 2011 Ferro manganese - Specification (fifth revision)	IS 1171 : 1996	25-09-2012

Copy of this Standard is available for sale with the Bureau of Indian Standards, Manak Bhavan, 9 Bahadur Shah Zafar Marg, New Delhi-110002 and Regional Offices: New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices: Ahmedabad, Bangalore, Bhopal, Bhubaneswar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Thiruvananthapuram.

[Ref. : MTD 5/T-3]

P. GHOSH, Scientist 'F' &amp; Head (MTD)

नई दिल्ली, 25 सितम्बर, 2012

का.आ. 3060.— भारतीय मानक ब्यूरो (प्रमाणन) विनियम, 1988 के विनियम 6 के उप-विनियम (3) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा नीचे अनुसूची में दिए गए उत्पादों की मुहरांकन शुल्क अधिसूचित करता है :-

## अनुसूची

भारतीय मानक संख्या	भाग	अनु.	वर्ष	उत्पाद	इकाई	न्यूनतम मुहरांकन शुल्क बड़े पैमाने पर	इकाई दर छोटे पैमाने पर	इकाई दर स्लैब 1 रु	स्लैब में इकाईयां	शेष	प्रचालन तिथि
1	2	3	4	5	6	7	8	9	10	11	12
1171	—	—	1996	फेरो मॅंगनीज	एक टन	54000	46000	7	सभी	—	11-05-2011
1269	01	—	1997	मेटेलिक और ग्लास फाइबर टेप माप बुनी हुई	मीटर	48000	41000	0.30	सभी	—	12-12-2011
1269	02	—	1997	स्टील टेप माप	मीटर	48000	41000	0.32	सभी	—	12-12-2011
3994	—	—	1993	बॉउल, वाश	एक नग	45000	39000	0.60	सभी	—	03-08-2012
4835	—	—	1979	लकड़ी के लिए पॉलिविनायल एसीटेट डिस्पर्सन बेस्ड अर्डेसिव	एक टन	90000	77000	86	सभी	—	02-01-2012
9972	01	—	2002	अग्नि संरक्षण सेवा के लिए ऑटोमेटिक स्प्रिंकलर हैंड	एक नग	29000	25000	1.20	सभी	—	12-12-2011

1	2	3	4	5	6	7	8	9	10	11	12
13849	—	—	1993	सुबाह्य अग्नि शामक-ड्राई पाउडर टाइप (कॉन्सटेंट प्रेशर) ईको मार्क सहित की विशिष्टि	एक नग	69000	58000	0.90	सभी	—	11-05-2011
14394	—	—	1996	इंडस्ट्रियल फास्टनर्स-सी ग्रेड उत्पाद के हैक्सागन नट्स हॉट-डिप गैल्वेनाइज्ड (साइज रेंज एम 12 से एम 36)	एक टन	43000	36000	27	सभी	—	11-05-2011
15683	—	—	2006	सुबाह्य अग्नि शामक कार्यकारिता और संरचना	एक अग्नि शामक	96000	82000	9	सभी	—	06-08-2012
15786	—	—	2006	पूर्वपरत चट्टे सीमेंट बॉन्डिड पार्टिकल बोड	एक वर्गमीटर	89000	76000	0.30	सभी	—	11-05-2011

[ सं. सीएमडी/13:10 ]

पी. के. गम्भीर, वैज्ञानिक 'जी' एवं प्रधान (प्रमाणन)

New Delhi, the 25th September, 2012

**S.O. 3060.**—In pursuance of sub-regulation (3) of regulation 6 of the Bureau of India Standards (Certification) Regulations, 1988, the Bureau of Indian Standards, hereby notifies the Marking fee for the products given in the schedule :—

**SCHEDULE**

IS No.	Part	Sec	Year	Product	Units	Minimum Marking Fee		Unit Rate Slab I	Units in Slab I	Remain- ing	Effective Date
						Large Scale	Small Scale				
1	2	3	4	5	6	7	8	9	10	11	12
1171	—	—	1996	Ferro Manganese	One Tonne	54000	46000	7	All	—	11-05-2011
1269	01	—	1997	Wooven Metallic and Glass Fiber Tape Measures	100 Meters	48000	41000	0.30	All	—	12-12-2011
1269	02	—	1997	Steel Tape Measures	100 Meters	48000	41000	0.32	All	—	12-12-2011
3994	—	—	1993	Bowl, Wash	One Piece	45000	39000	0.60	All	—	03-08-012
4835	—	—	1979	Polyvinyl Acetate Dispersion Based Adhesive for Wood	One Tonne	90000	77000	86	All	—	02-01-2012
9972	01	—	2002	Automatic Sprinkler Head for Fire Protection Services	One Piece	29000	25000	1.20	All	—	12-12-2011

1	2	3	4	5	6	7	8	9	10	11	12
13849	-	-	1993	Specification for portable fire extinguisher dry powder type (constant pressure) Including ECO Mark	One Piece	69000	58000	0.90	All	-	11-05-2011
14394	-	-	1996	Industrial Fasteners- Hexagon Nuts of Product Grade C-Hot-Dip Galvanized-Specification (Size Range M12 to M 36)	One Tonne	43000	36000	27	All	-	11-05-2011
15683	-	-	2006	Portable Fire Extinguisher- Performance and Construction	One Fire Extinguisher	96000	82000	9	All	-	06-08-2012
15786	-	-	2006	Prelaminated Cement Bonded Particle Board	One Square meter	89000	76000	0.30	All	-	11-05-2011

[No. CMD/13:10]

P. K. GAMBHIR, Scientist 'G' &amp; Chief (Certification)

**श्रम एवं रोजगार मंत्रालय**

नई दिल्ली, 5 सितम्बर, 2012

का.आ. 3061.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स भारतीय जीवन बीमा निगम, पटना के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण/श्रम न्यायालय, पटना के पंचाट (संदर्भ संख्या 72 सी/2008) को प्रकाशित करती है जो केन्द्रीय सरकार को 21-8-2012 को प्राप्त हुआ था।

[सं. एल-17011/2/2008-आई आर (एम)]

जोहन तोपनो, अवर सचिव

**MINISTRY OF LABOUR AND EMPLOYMENT**

New Delhi, the 5th September, 2012

S.O. 3061.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 72(C)/2008) of the Industrial Tribunal/Labour Court, Patna now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s Life Insurance Corporation of India (Patna) and their workman, which was received by the Central Government on 21-8-2012

[No. L-17011/2/2008-IR (M)]

JOHAN TOPNO, Under Secy.

**ANNEXURE****BEFORE THE PRESIDING OFFICER****INDUSTRIAL TRIBUNAL, PATNA****Reference Case No. 72(C) of 2008**

Management of Life Insurance Corporation of India, Frazer Road, Patna (Bihar)-800001 and their workmen represented by the President, Bhartiya Jeevan Nigam Dainik Mazdoor Karmchhari Sangh, C/o L.I.C. of India, Jeevan Prakash, Frazer Road, Patna (Bihar).

For the Management : Sri Raju Rajak, A.O. (Estate), Patna Divisional Office, Patna.

For the Workmen : Sri B. Prasad, Joint Convenor Co-ordination Committee of Union.

Present :— Sri Harish Chandra Singh, Presiding Officer, Industrial Tribunal, Patna.

**AWARD**

Patna, the 14th May, 2012.

By adjudication order No.-L-17011/2/2008-IR(M) dated 21-07-2008 the Central Government (Government of India) Ministry of Labour, New Delhi referred under clause (d) of sub-section (1) and sub-section 2(A) of section 10 of the Industrial Dispute Act, 1947 (hereinafter to be referred to as 'the Act') the following dispute between the Management of Life Insurance Corporation of India, Frazer Road, Patna and their workmen for adjudication to the Industrial Tribunal, Patna.

"Whether the action of the management of LIC of India, Patna in terminating the services of S/Shri Murari Prasad and Ram Prasad is just and legal? If not, what relief the workmen are entitled to?"

2. Workmen Murari Prasad and Ram Prasad have filed joint statement of claim praying therein to answer the reference in their favour directing the management to reinstate them with full back wages. The case of Murari Prasad is that he was appointed by the competent authority in March, 1995 as Guest House Care Taker. He served the management as such from March, 1995 to 27-02-2007. The case of Ram Prasad is that he was appointed as Pump Operator by the competent authority in the year 1995 and continued service till 17-03-2007. Their case is that termination of their services amounts to retrenchment within the meaning of Section 2(oo) of the Industrial Dispute Act, 1947 as their services have been terminated without any stigma. They served the management more than 240 days continuously within 12 calendar months immediately before the date of termination of their services. Thus they are entitled to get benefits of Section 25 F of the Industrial Dispute Act, 1947. They were not served any notice regarding their termination nor paid one month wages in lieu thereof. The management did not pay any amount as retrenchment compensation required U/S 25 F of the Industrial Dispute Act, 1947. The management did not observe the theory of last come first go as provided in section-25G of the I.D. Act. At the time of termination of services of the workmen an Industrial Dispute with regard to payment of wages (equal pay for equal work) of the workmen including the concerned workmen was pending before the conciliation officer. The management terminated the services of the concerned workmen without seeking approval from the authority where the Industrial Dispute was pending. Such permission was required U/S 33(1) (b) or Section 33(2) (b) of the Industrial Disputes Act. Further their case is that they are President and Secretary of Bhartiya Jeevan Beema Nigam, Danik Mazdoor Karamchhari Sangh and they made pairvi before Hon'ble Supreme Court in such capacity in a case pending there for absorption/regularisation of services of daily wages employee including them. In the capacity of office bearers of Bhartiya Jeevan Beema Nigam Dainik Mazdoor Karamchhari Sangh (hereinafter referred to in short as Karamchhari Sangh) they used to fight with the management for Welfare of the members of Karamchhari Sangh and ventilated the grievances of the workmen. In that connection they submitted scores of representations and letters and lead agitation etc. Their case is that the management terminated their services illegally and arbitrarily in retaliation. Their claim is that being office bearers of a Trade Union they are protected workmen. Further their case is that though their services are daily rated, they have right to their post because the question of regularisation/absorption of their services are pending before the Hon'ble Supreme Court of India. They have further stated in their pleadings that

their service record are neat and clean. Further their case is that they have not been served any order from the management regarding termination of their services in writing. They have been removed from service only by oral order. After their termination they raised Industrial Dispute which has been referred to this Tribunal for adjudication.

3. The management of Life Insurance Corporation of India have filed their written statement. It has been admitted in written statement that both the workmen were engaged by LIC as daily-rated worker. Workmen Murari Prasad was engaged as a daily-rated worker in LIC Guest House situated within the campus of Patna Divisional Office of LIC. Workman Ram Prasad was engaged as daily-rated worker at LIC staff quarter, Fraser Road, Patna for looking after water supply etc. Case of the management is that both the workmen were found involved in activities prejudicial to the interest of LIC. On 26-02-2007 the management of LIC decided to take keys of LIC Guest House from Shri Murari Prasad and for that purpose a committee of five senior officials was set up. When the committee reached the Guest House along with a copy of the office order, Shri Murari Prasad refused to hand over the keys of LIC Guest House and subsequently he called out his aides to resist the management from taking keys of the Guest House. The members of the committee were assaulted and beaten by Murari Prasad and his associates. This incident was reported to the police and police registered a case against the Murari Prasad and another employee of LIC. After investigation police found the case true and submitted charge sheet against Murari Prasad and another and that case is still pending before a magistrate court. Further case of the management is that Ram Prasad was also found to have aided the anti-establishment activities of Shri Murari Prasad. The case of the management is that such as incident of indiscipline was not tolerable for any disciplined organization and as such the LIC had no other option but to disengage them with immediate effect.

4. In the light of the pleadings of the workmen as well as management following points are required to be decided in this reference.

- (i) "Whether the workmen have proved that they have worked for 240 days continuously within 12 calendar months immediately before the date of termination their services to?"
- (ii) "Whether the services are Shri Murari Prasad and Shri Ram Prasad were terminated by way of punishment for their Act of indiscipline and if so whether it is just of legal?"
- (iii) "To what relief the workmen are entitled to?"

## FINDINGS

**5. Issue No. (i) :—** At the very outset it is made clear that the management has not contested the claim of the workmen on the ground that there are not daily-rated worker or they have not completed more than 240 days of work with LIC within 12 months immediately before the date of termination. In the written statement filed by the management it is admitted that both the workmen Shri Murari Prasad and Shri Ram Prasad were engaged as daily-rated worker by the LIC. Murari Prasad was engaged to look after Guest House and Ram Prasad was engaged to look after the work of Water Supply in the staff quarter of LIC. Workmen have also proved by oral as well as documentary evidence that they worked as daily-rated workers but their wages were paid on monthly basis. W.W.-1 Ram Prasad has stated that earlier he used to get @ Rs. 25 per day and later on he was paid @ Rs. 95 per day. He worked for LIC continuously from 1995 to 2007. He was removed from service from 17-03-2007. Workman Murari Prasad examined as W.W.-2 has stated that he has started to work on the orders of Manager. Earlier he was paid @ 66.48 per day. He used to get Rs. 25 as over time also. Total Rs. 91.48 was paid to him. He has also proved some documents regarding Payment of Wages by the Management which are Exts. W/10, W/10-1 upto W/10-23. Similar vouchers are W/4 series also which are W/4 upto W/4-27. Ext. W/5 and W/6 are not directly related to these two workmen but are regarding rate of payment to daily rated workmen.

Having considered the pleadings of the parties and the evidence discussed above I have come to the conclusion that the workmen have proved that they worked with LIC as daily rated worker and they were paid wages also as daily rated worker. These facts are not disputed and have been admitted by the management in the paragraph-3 of their written statement. In the light of aforesaid discussions of evidence and pleadings logical conclusion goes that the workmen have proved that they worked 240 days or more within 12 calendar months immediately before termination of their services.

**Issue No. (ii) :—** The case of the workmen is that their services were terminated without any stigma and therefore it amounts to retrenchment within the meaning of section 2(oo) of the I.D. Act, 1947. They were not served any notice. They were not given any termination order. The case of the management is that the workmen indulged in grave misconduct of indiscipline for which criminal case has been registered against them. Workman Murari Prasad who was looking after LIC Guest House refused to give the keys of Guest House to five senior officers of LIC who were deputed to collect the keys from him. Murari Prasad along with his aids assaulted the officials of LIC. Criminal case i.e. Kotwali Case No. 88/2007 was registered and after investigation police submitted charge sheet against Murari

Prasad and Rakesh Ranjan Sinha u/s 341/323/504/506 of I.P.C. which is pending for trial before a magistrate. The case of the LIC is that these two workmen were removed for their Act of indiscipline.

Witnesses of management M.W.-1 Golok Bihari Mallick, M.W.-2 Ajay Kumar, M.W.-3 Prafulla Kumar Sethi, M.W.-4 Vikash Kumar Choudhary all have supported the case of the management regarding act of indiscipline by Murari Prasad. M.W.-2 Murari Prasad himself has admitted in his cross-examination in paragraph-18 & 20 that five officers went to him to collect keys of Guest House but he didn't handover the keys because they did not give any written order but in the same breath he has admitted that he didn't receive the keys of the Guest House in writing. Again he stated that he didn't give the keys of the Guest House because keys there being collected to remove him from the service. Report of the occurrence given to the police is Ext. M/8 and charge sheets Ext. M/9. It appears from Ext. 14 and Ext. 17 that a complaint case was filed by the Murari Prasad against Birendra Kumar Sinha, Prafulla Kumar Sethi, Ajay Kumar, Golak Bihari Mallick, Bikash Kumar Choudhary and Shiv Nath in which cognizance of offences under section 323, 341 and 504 of the Indian Penal Code was taken vide order dt. 27-02-2007. This complaint was regarding incident which etc. place at 7 p.m. on 27-02-2007 at LIC Guest House. The Hon'ble Court vide order dt. 07-05-2010 passed in Cr. Misc. No. 4759 of 2008 quashed the order to cognizance.

All the above discussed evidence, facts and circumstances indicate that there was grave misconduct of indiscipline on the part of workmen Murari Prasad and Ram Prasad. But the manner in which they were removed or disengaged by LIC is not permissible in law. However grave the misconduct may be, workmen can be removed only after complying with the provisions of the I.D. Act. In this case workmen were engaged by oral order and they were disengaged or removed by oral order without any order in writing. Provision of u/s 25 F of the I.D. Act were admittedly not complied with.

Removal or disengagement of both workmen, though result of grave misconduct, was not by way of disciplinary action. Had it been so, it would not have been covered under definition of retrenchment u/s 2(oo) of the I.D. Act, 1947 which excludes the removal from service by way of disciplinary action from the definition of word retrenchment. In this case the management has come forward with a case that the act of indiscipline on the part of workmen was not tolerable for LIC and they were disengaged with immediate effect. But no disciplinary action appears to have been taken. It is interesting to note that according to Ext. M/10 disciplinary action was taken against another person named Rakesh Ranjan Sinha who was also involved in the same occurrence of assault on five senior officers. In his case regular departmental

enquiry as envisaged under sub-regulation (2) and (3) of regulation 39 of the LIC of India (Staff) Regulations 1960 was dispensed with. Show cause notice regarding proposed penalty of dismissal from the service was served upon him. Perhaps because Murari Prasad and Ram Prasad were daily rated employees no such disciplinary proceeding was taken against them. No order of their dismissal was issued. No order of their disengagement was issued. They were simply disengaged without any written order and without any compensation and without any compliance with the provisions of the I.D. Act.

It is well settled that if a workman has worked for 240 days or more in any Industry within the 12 calendar months immediately preceding the date of his termination he is entitled to protection provided under I.D. Act. Admittedly no compensation u/s-25-F was paid to them therefore, termination of their service is neither lawful nor just and proper.

It has been pleaded by the workmen in their written statement of claim that an Industrial Dispute regarding payment of wages (Equal pay for Equal work including that of these two workmen) was pending before the conciliation officer. The management terminated the service of these two workmen without seeking any approval from the authority where the Industrial Dispute was pending for conciliation. Such approval was necessary section 33(1) (b) or 33 (2) (b) of the Industrial Dispute Act, 1947. The case of the workmen is that termination of services of these two workmen is liable to be set-aside on this ground alone. In spite of these pleadings there is no evidence in this regards. Both workmen examined as W.W-1 (Ram Prasad) and W.W-2 (Murari Prasad) have not stated anything regarding any Industrial Dispute pending for conciliation before any authority. No document has been filed to indicate that any Industrial Dispute was pending for conciliation before any authority.

There is a further plea by the workmen that a case relating to absorption/regularization of daily wage employees including to these workmen was pending before the Hon'ble Supreme Court of India. They were office bearer of Bhartiya Jeevan Bima Nigam Dainik Mazdoor Karamchari Sangh and made pairvi before the Supreme Court. No documents have been filed to support this plea. There is no oral evidence also on this plea. There is no evidence oral or documentary to indicate that these two workmen were office bearers of any trade union or Bhartiya Jeevan Bima Nigam Dainik Mazdoor Karamchari Sangh. There is no evidence that any case was pending before Hon'ble Supreme Court.

Workmen have relied the decisions of the Supreme Court in Anoop Sharma Versus Executive Engineer, Public Health Division No. 1, Panipat (Haryana)-2010-III L.L.J-1 (S.C.). In this case the Hon'ble Supreme Court held that no workmen employed in an industry continuously for not

less than one year under an employer can be retrenched by the employer until the conditions enumerated in clause (a) or (b) of the section-25 F of the I.D. Act, 1947 are satisfied. Compliance of these conditions is mandatory and non-compliance thereof renders the retrenchment of an employee nullity. Relevant part of the judgement of Supreme Court may be quoted as under here.

Section 25-B, which defines the term 'continuous service' and Section 25-F (a) and (b) of the Act, which mandates giving of one month's notice or pay in lieu thereof and retrenchment compensation to the workman whose service is sought to be terminated otherwise than by way of punishment or in accordance with the express terms incorporated in the order of appointment, read as under:

25-B. Definition of continuous service—For the purposes of this Chapter,

(1) a workman shall be said to be in continuous service for a period if he is, for that period, in uninterrupted service, including service which may be interrupted on account of sickness or authorized leave or an accident or a strike which is not illegal, or a lock-out or a cessation of work which is not due to any fault on the part of the workmen;

(2) where a workman is not in continuous service within the meaning of clause (1) for a period of one year or six months, he shall be deemed to be in continuous service under an employer—

(a) for a period of one year, if the workman, during a period of twelve calendar months preceding the date with reference to which calculation is to be made, has actually worked under the employer for not less than—

(i) one hundred and ninety days in the case of a workman employed below ground in a mine; and

(ii) two hundred and forty days, in any other case;

(b) for a period of six months, if the workman during a period of six calendar months preceding the date with reference to which calculation is to be made, has actually worked under the employer for not less than—

(i) ninety-five days, in the case of a workman employed below ground in mine; and

(ii) one hundred and twenty days, in any other case.

Explanation.- For the purposes of clause (2), the number of days on which a workman has actually worked under an employer shall include the days on which—

(i) he has been laid-off under an agreement or as permitted by standing orders made under the

Industrial Employment (Standing Orders) Act, 1946 (20 of the 1946), or under this Act or under any other law applicable to the industrial establishment;

- (ii) he has been on leave with full wages, earned in the previous years;
- (iii) he has been absent due to temporary disablement caused by accident arising out of and in the course of his employment; and
- (iv) in the case of a female, she has been on maternity leave; so however, that the total period of such maternity leave does not exceed twelve weeks.

25-F. Conditions precedent to retrenchment of workmen.-No workman employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until.

(a) the workman has been given one month's notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the workman has been paid in lieu of such notice, wages for the period of the notice;

(b) the workman has been paid, at the time of retrenchment, compensation which shall be equivalent to fifteen days' average pay for every completed year of continuous service or any part thereof in excess of six months

(c)                   \*\*\*                   \*\*\*                   \*\*\*

An analysis of the above reproduced provisions shows that no workman employed in any industry who has been in continuous service for not less than one year under an employer can be retrenched by that employer until the conditions enumerated in Clauses (a) and (b) of section 25-F of the Act are satisfied. In terms of Clause (a), the employer is required to give to the workman one month's notice in writing indicating the reasons for retrenchment or pay him wages in lieu of the notice. Clause (b) casts a duty upon the employer to pay to the workman at the time of retrenchment, compensation equivalent to fifteen days' average pay for every completed year of continuous service or any part thereof in excess of six months. This Court has repeatedly held that Section 25-F(a) and (b) of the Act is mandatory and non-compliance thereof renders the retrenchment of an employee nullity-State of Bombay *V. Hospital Mazdoor Sabha* AIR 1960 SC 610; 1960-I-LLJ-251, *Bombay Union of Journalists V. State of Bombay* AIR 1964 SC 1617; 1964-I-LLJ-351, *State Bank of India V. N. Sundara Money* AIR 1967 SC 111; (1976) 1 SCC 822; 1976-I-LLJ-478, *Santosh Gupta V. State Bank of Patiala* AIR 1980 SC 1219; (1980) 3 SCC 340; 1980-II-LLJ-72, *Mohan Lal V. Management of Bharat Electronics Ltd.* AIR 1981 SC 1253; (1981) 3 SCC 225; 1981-II-LLJ-70, *L. Robert D' Souza V.*

*Executive Engineer, Southern Railway* AIR 1982 SC 854; (1982) 1 SCC 645; 1982 330: I-LLJ, *Surendra Kumar Verma V. Industrial Tribunal* AIR 1981 SC 422; (1980) 4 SCC 443; 1981-I-LLJ-386, *Gammon India Ltd. V. Niranjan Das* AIR 1984 SC 500; (1984) 1 SCC 509; 1984-I-LLJ-233, *Gurmair Singh V. State of Punjab* (1991) 1 SCC 189; 1991-II-LLJ-76, and *Pramod Jha V. State of Bihar* AIR 2003 SC 1872; (2003) 4 SCC 619; 2003-II-LLJ-159. This Court has used different expressions for describing the consequence of terminating a workman's service/employment/ engagement by way of retrenchment without complying with the mandate of Section 25-F of the Act. Sometimes it has been termed as abinitio void, sometimes as illegal per se, sometimes as nullity and sometimes as non est. Leaving aside the legal semantics, we have no hesitation to hold that termination of service of an employee by way of retrenchment without complying with the requirement of giving one month's notice or pay in lieu thereof and compensation in terms of Section 25-F(a) and (b) has the effect of rendering the action of the employer as nullity and the employee is entitled to continue in employment as if his service was not terminated.

Applying the law laid down by Hon'ble apex court in *Anoop Sharma Versus Executive Engineer, Public Health Division No. 1, Panipat (Haryana)*. I have come to the conclusion that in this case also the retrenchment of the services of workmen Ram Prasad and Murari Prasad are hit by non-compliance of section 25-F of the I.D. Act.

A few more decisions have been cited by the workmen, Decisions in *Dhirendra Chamoli* and another *Versus State of U.P.* and *Surinder Singh* and another *versus The Engineer in-charge of CPWD* are on the point of equal pay for equal work which have no bearing on this case. Another decisions cited by the workmen is *Mineral Exploration Corporation Employee's Union Versus Mineral Exploration Corporation* and another. This is also about the regularisation of workmen engaged for long years.

In this reference the question for equal pay for equal work and regularisation is not subject matter of reference for adjudication. Therefore, these decisions cited by the workmen are of no use for them.

However in the nut-shell, having considered the evidence as discussed above I have come to the conclusion that the workmen Murari Prasad and Ram Prasad worked for more than 240 days within 12 calendar months immediately preceding the date of termination of their services and therefore they were entitled to retrenchment compensation u/s-25-F of the I.D. Act. Admittedly they were not given notice of retrenchment and no retrenchment compensation as stipulated u/s-25-F I.D. Act was paid to them. As such termination of services of Murari Prasad and Ram Prasad is not just and legal.



**Issue No.-(iii)** Now aforesaid findings leads us to the next question as to what relief the workmen are entitled to. The prayer of the workmen is that the management be directed to reinstate them with full back wages. In this connection again reliance has been placed by the workman on *Anoop Sharma Versus Executive Engineer, Public Health Division No. 1, Panipat (Haryana) 2010-III-LLJ-I (SC)*, in which the order of the Industrial Tribunal-cum-Labour Court, Panipat directing the reinstatement of the appellants was set aside by the High Court. However the Hon'ble Supreme Court set aside the order of the High Court and restored the order of the Industrial Tribunal cum Labour Court. It appears from reading paragraph-10 & 11 of the judgement that the judgement of the High Court was set aside by Hon'ble Supreme Court on other grounds. Recent trend of decisions by the Hon'ble apex court is that relief by way of reinstatement with back wages is not automatic even if termination of an employee is found to be illegal or is in contravention of the prescribed procedure and monetary compensation in lieu of reinstatement and back wages in cases of such nature may be appropriate.

In this regard reference can be made to (i) Senior Superintendent, Telegraph (Traffic), Bhopal *Versus Santosh Kumar Seal & others A.I.R. 2010 SC 2140*. (ii) U.P. State Brassware Corpn. Ltd. & Anr *Versus Uday Narain Pandey; (2006) 1 SCC 479; (AIR 2006 SC 586 AIR SCW 6314)* (iii) Uttaranchal Forest Development Corpn. *Versus M.C. Joshi (2007) 9 SCC 353; (2007) AIR SCW 7305* etc.

In the case of Jagbir Singh *Versus Haryana State Agriculture Marketing Board and Another (2009) 15 SCC 327 (AIR 2009 SCC 3004; 2009 AIR SCW 4824)* it was observed that :—

"It is true that the earlier view of this Court articulated in many decisions reflected the legal position that if the termination of an employee was found to be illegal, the relief reinstatement with full back wages would ordinarily follow. However, in recent past, there has been a shift in the legal position and in a long line of cases, this Court has consistently taken the view that relief by way of reinstatement with back wages is not automatic and may be wholly in appropriate in a given fact-situation even though the termination of an employee is in contravention of the prescribed procedure. Compensation instead of reinstatement has been held to meet the ends of justice.

\* \* \* \* \*

"It would be, thus, seen that by a catena of decisions in recent time, this Court has clearly laid down that an order of retrenchment passed in violation of Section 25-F although may be set aside but an award of reinstatement should not, however, be automatically passed. The award of reinstatement

with full back wages in a case where the workman has completed 240 days of work in a year preceding the date of termination, particularly, daily wagers has not been found to be proper by this Court and instead compensation has been awarded. This Court has distinguished between a daily wager who does not hold a post and permanent employee."

In this case also I am of the view that in spite of my findings that termination of services of the workmen Murari Prasad and Ram Prasad are not just and illegal because of violation of u/s-25 F of the I.D. Act, the relief of reinstatement with full back wages will not follow automatically. In this case also the workmen are daily wagers. There is evidence of misconduct on their part. Having regard to their conduct also they are not entitled to the relief of reinstatement with back wages.

In my considered opinion monetary compensation of Rs. 25,000 (Rs. Twenty Five Thousand) will meet the ends of justice. Therefore, the management of L.I.C. of India, Patna is directed to pay monetary compensation of Rs. 25,000 (Rs. Twenty Five Thousand) to Ram Prasad and monetary compensation of Rs. 25,000 (Rs. Twenty Five Thousand) to Murari Prasad within one month of the date of publication of this award.

I pass the award accordingly.

HARISH CHANDRA SINGH, Presiding Officer

नई दिल्ली, 5 सितम्बर, 2012

का.आ. 3062.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स कर्मचारी राज्य बीमा निगम, धनबाद के प्रबंधन के संबंध में निर्योजकों और उनके कर्मचारियों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 1, धनबाद के पंचाट (संदर्भ संख्या 45/2010) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21-8-2012 को प्राप्त हुआ था।

[सं. एल. 15011/1/2010-आई आर (एम)]

जोहन तोपनो, अवर सचिव

New Delhi, the 5th September, 2012

S.O. 3062.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947) the Central Government hereby publishes the award (Ref. No. 45/2010) of the Central Government Industrial Tribunal/Labour Court No. 1, Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Employees State Insurance Corporation (Dhanbad) and their workman, which was received by the Central Government on 21-8-2012.

[No. L-15011/1/2010-IR (M)]

JOHAN TOPNO, Under Secy.

3628 17/13-5

**ANNEXURE****BEFORE THE CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL NO. I, DHANBAD**

In the matter of a reference U/s. 10(1)(d)(2A) of the Industrial Disputes Act, 1947.

**Reference No. 45 of 2010**

**Parties :** Employers in relation to the management of Employees' State Insurance Corporation.

**AND**

Their Workmen.

**Present :** Shri H.M. Singh, Presiding Officer

**Appearances:**

For the Employers : Shri H.P. Gond, Advocate

For the Workmen : Shri D.K. Verma, Advocate

State : Jharkhand Industry : Insurance

Dated, the 21-6-2012

**AWARD**

By Order No. L-15011/1/2010-IR(M) dated 4-8-2010 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal:

"Whether the action of the management of Employees State Insurance Corporation, Dhanbad in not regularising/absorbing S/Shri Rajesh Kumar Rai and Sunil Kumar Rai in service of ESIC is fair and justified? To what relief the concerned workmen are entitled?"

2. The case of the concerned workmen is that they have been working continuously since 31-8-99 and 11-3-99 as water carrier and water carrier-cum-sweeper respectively. They have been working with all satisfaction of their superiors putting quite un-blemished record of service. They represented before the management several times for their regularisation/absorption in the service of the management. But they have not been regularised/absorbed on the above noted posts disregarding their repeated demands both oral and in writing on pretexts including pretext of their part-time working.

An industrial dispute was raised before the A.L.C.(C), Dhanbad, but the same was ended in failure due to the adamant attitude of the management. Ultimately, this industrial dispute has been referred to this Hon'ble Tribunal for adjudication by the appropriate Government. The action of the management in not regularising/absorbing the concerned workmen is not fair and not justified.

Under such circumstances, it has been prayed that the Hon'ble Tribunal be pleased to pass an award by directing the management to regularise/absorb S/Shri Rajesh Kumar Rai and Sunil Kumar Rai as Water Carrier and Water Carrier-cum-Sweeper after 31-1-99 and 13-3-99 respectively from due and appropriate date.

3. The case of the management of E.S.I.C. is that Sri Rajesh Kumar Rai and Sri Sunil Kumar Rai are not the employee of the management. They are running their own business of Tea and Nasta Dukan nearby the Corporation office on the main Road. Due to the business of tea and nasta they became closed to the office of the management and their relation became deeper to the office and as such they were provided the work of water to fill up Filter and Ghara on lumpsum monthly and further they provided the work of clearing the tables, Chairs and floors of the office on lumpsum monthly. The concerned persons knowingly accept their engagement with their open eyes on agreed lumpsum amount offered by Corporation.

It has been submitted that the issue settled in this reference case is not at all maintainable on the law and facts of this case because the concerned persons are not the employees of the management, E.S.I.C.

Under the facts and circumstances stated above, it has been prayed that the Hon'ble Tribunal be pleased to hold that the action of the management in not regularising/absorbing the concerned persons is fair and justified and the concerned persons are not entitled to any relief.

4. Both the parties have filed their respective rejoinders admitting and denying the contents of some of the paragraphs of each other's written statement.

5. The concerned workmen produced WW-1, Sunil Kumar Rai (one of the concerned workmen) and proved documents as Exts. W-1 to W-7.

The management produced MW-1, Satyendra Prasad Sinha.

6. Main argument advanced on behalf of the concerned workmen is that the names of the concerned workmen were sponsored from the Employment Exchange and the management after the interview appointed Sri Sunil Kumar Rai in the post of Sweeper *vide* office order dated 11-3-1999 on payment of Rs. 150 per month and Sri Rajesh Kumar Rai *vide* office order dated 31-8-99 as water carrier on payment of Rs. 150 per month and since then both the workmen concerned are working continuously. Thereafter, the management enhanced their wages *vide* office order dated 1-3-2000 as Rs. 200 and later on Rs. 500 per month and at present they are getting Rs. 500 per month each. They have demanded from the management proper wages but the management is not giving them proper wages. In this respect it has also been argued that they have worked for more than 240 days and the management produced

vouchers for workings continuously since their appointment.

It has also been referred 2008 LLR 1214 by the concerned workmen in which the Hon'ble Supreme Court laid down—

"Industrial Disputes Act, 1947—Section 2(s) 'workman' read with Section 25F providing for payment of retrenchment compensation at the time of termination of services of a 'workman'—Part-time sweeper initially appointment in the Insurance Company at Rs. 130 per month with effect from 2.1.1985 and worked till 15.3.1989—Services terminated—in dispute, as raised, the Industrial Tribunal holding that part-time worker is not an employee—writ petition filed—High Court set aside the Award holding that section 2(s) and 25F were not restricted to only full-time employees hence the orders of the Tribunal were quashed—Finally SLP filed by the Insurance Company—Supreme Court dismissed the appeal holding that a part-time employee will be covered by the definition of 'workman'—Compliance of Section 25F of the Act will be imperative—Workman will be entitled to reinstatement and other attendant benefits."

It has also been found that the Hon'ble Supreme Court held that section 25-B of the Industrial Disputes Act, 1947 will apply when they are working continuously. It has also been argued that the concerned workmen were appointed according to the requirement of the management after the interview on calling their names from Employment Exchange the concerned workmen were selected. The appointment of the concerned workmen was not challenged by the authority of the manager who appointed them.

7. In this respect the evidence of MW-1, Satyandra Prasad Sinha, is very material. He has stated in his cross-examination that as per order of the management the concerned workmen were appointed. B. Tiwary was Manager on 31-8-99. Ext. W-1 was also issued by him. Sri Tiwary was Manager on 1-3-2003. Ext. W-3 was also issued by him. The wages of the concerned workman was written in Ext. W-3 per month. I cannot say if from 1999 the concerned workmen worked in the establishment. Sunil Kumar worked from 1996 to 1999 continuously and thereafter I was transferred.

The statement of the management's witness shows that the concerned workmen are working continuously and they have been issued work certificates by the management. It shows that Section 25-B of the Industrial Disputes Act, 1947 has been violated by the management. Moreover, the documents filed on behalf of the management show, as per Ext. W-7, that the concerned workmen have been paid wages by the management since 1999 and the work

certificates have been issued by the Manager in favour of the concerned workmen, as per Exts. W-1, W-2. Exts. W-4 is appointments letter of Sunil Kumar Rai. Exts. W-5 is wage rate of Sunil Kr. Rai. Ext. W-6 is application by Sunil Kumar Rai. Ext. W-1 is the appointment letter issued by the Manager to Rajesh Kumar Rai. Ext. W-7 series are payment of certificates issued by the Manager since 1999 till now. So, it shows that the concerned workmen are working with the management with meagre wages of Rs. 500 per month and that is exploitation and it is unfair labour practice. So, in the circumstances, the concerned workmen are entitled to be regularised/absorbed in the service of ESIC management.

8. In the result, I hold that the action of the management of Employees State Insurance Corporation, Dhanbad in not regularising/absorbing S/Shri Rajesh Kumar Rai and Sunil Kumar Rai in service of ESIC is not fair and justified. Accordingly, the management is directed to regularise/absorb S/Shri Rajesh Kumar Rai and Sunil Kumar Rai in the service of ESIC as Group 'D' employees within two months from the date of publication of the award in the Gazette of India.

This is my Award.

H. M. SINGH, Presiding Officer

नई दिल्ली, 7 सितम्बर 2012

का.आ.3063.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स नरेश कुमार एण्ड कम्पनी प्रा. लिमिटेड एण्ड सुकिन्डा क्रोमिक माईन्स आफ टिस्को उड़ीसा के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, भुवनेश्वर-2 के पंचाट (संदर्भ संख्या 52/2011) प्रकाशित करती है जो केन्द्रीय सरकार को 21-8-2012 को प्राप्त हुआ था।

[ सं. एल-29012/19/2010-आई आर (एम)]

जोहन तोपनो, अवर सचिव

New Delhi, the 7th September, 2012

S.O. 3063.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 52/2011) of the Central Government Industrial Tribunal/Labour Court, Bhubaneswar-2 now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s Naresh Kumar & Co (P) Ltd., and Sukinda Chromite Mines of TISCO (Orissa) and their workman, which was received by the Central Government on 21-8-2012

[No. L-29012/19/2010-IR (M)]

JOHAN TOPNO, Under Secy.

## ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-  
CUM-LABOUR COURT, BHUBANESWAR

## PRESENT:

Shri J. Srivastava,  
Presiding Officer, C.G.I.T.-cum-Labour  
Court, Bhubaneswar.

## INDUSTRIAL DISPUTE CASE NO/ 52/2011

Date of Passing Order- 23rd July, 2012

## BETWEEN:

1. M/s. Naresh Kumar & Co. (P) Ltd.,  
C/o. Sukinda Chromite Mines of TISCO,  
At./Po. Kalarangiatta, Dist. Jajpur, Orissa.
2. The Dy. General Manager,  
Sukinda Chromite Mines of TISCO,  
At./Po. Kalarangiatta, Dist. Jajpur, Orissa  
... 1st Party-Managements.

(And)

Their workman Shri Prafulla Kumar Mohanta,  
C/o. Shri Baikunthaj Mohanta, at Badaberena,  
Po. Muruabil, Via Badasual, Dhenkanal- 39.  
... 2nd Party- Workman.

## APPEARANCES:

For the 1st Party-  
Management No. 1 and 2. None

For the 2nd Party-Workman. None.

Party-workman did not appear in the case on any of the dates fixed for hearing. When the statement of claim was filed on 30.11.2011 in the office the 2nd party-workman was found absent. As such he has been quite negligent in prosecuting his case and took no pains to comply the orders of the Tribunal. Hence it will be of no use to keep the case pending indefinitely for no purpose.

2. Besides from perusal of the statement of claim no case is made out prima-facie to entitle him for grant of any relief as he has not mentioned as to whether he was a permanent employee or casual/temporary or daily wage employee. It has also not been disclosed as to when he was dismissed by the Management and from which post. He has also raised claim for revised pay scale which is beyond the scope of reference. Therefore, his claim is liable to be rejected for want of prosecution and necessary details. Consequently the claim of the 2nd Party-workman is rejected being vague and he is not fund to be entitled to get any relief.

J. SRIVASTAVA, Presiding Officer.

नई दिल्ली, 7 सितम्बर, 2012

का.आ. 3064.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स युनाइटेड इंडिया इन्स्युरेन्स कम्पनी लिमिटेड चैन्नई के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, चैन्नई के पंचाट (संदर्भ संख्या 38/2010) प्रकाशित करती है जो केन्द्रीय सरकार को 27-7-2012 को प्राप्त हुआ था

[सं. एल-17012/10/2010-आई आर (एम)]

जोहन तोपनो, अवर सचिव

## ORDER

The 2nd Party-workman Shri Prafulla Mohanta in compliance to the order of reference of his dispute to his Tribunal had filed his statement of claim on 30.11.2011, but no copy was served on the 1st Party-Management No. 1 and 2 despite repeated orders of this Tribunal. He neither sent the copy of the statement of claim nor took any steps. Looking to his indifference and neglect, notices were issued by this Tribunal to the 1st Party-Management No. 1 and 2 by ordinary as well as registered post on 10.4.2012 and 1.5.2012 respectively, but the 1st Party-Management No. 1 and 2 neither put in their appearance nor filed any written statement. It has also to be taken on record that the 2nd

New Delhi the 7th September, 2012

S.O. 3064.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No 38/2010) of the Central Government Industrial Tribunal/Labour Court, Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s United India Insurance Company Ltd. (Chennai) and their workman, which was received by the Central Government on 27-7-2012

[No. L-17012/10/2010-IR (M)]

JOHAN TOPNO, Under Secy.

## ANNEXURE

BEFORE THE CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,  
CHENNAI

Friday, the 13th July, 2012

Present : A. N. Janardanan, Presiding Officer

INDUSTRIAL DISPUTE No. 38/2010

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of United India Insurance Co. Ltd. and their Workman).

## BETWEEN

Sri G. Ramulu : Petitioner/1st Party

And

The General Manager : Respondent/2nd party

United India Insurance

Company Ltd.

No. 24 Whites Road,

Chennai-600014

## APPEARANCE:

For the 1st Party/Petitioner : Sri V. Murugan, Advocate

For the 2nd Party/ : M/s. S. Vijayadharani &amp;

Management S. Chandrasekaran,  
Advocates

## AWARD

The Central Government, Ministry of Labour vide its Order No. L-17012/10/2010-IR(M) dated 16.11.2010 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is:

"Whether the action of the management of the United India Insurance Co. Ltd. in terminating the services of Sri G. Ramulu, is legal and justified? To what relief the concerned workman is entitled?"

2. After the receipt of Industrial Dispute, this Tribunal has numbered it as ID 38/2010 and issued notices to both

sides. Both sides entered appearance initially through Advocates and the petitioner filed Claim Statement. Respondent did not file Counter Statement. Subsequently both petitioner and respondent remained absent and eventually they were called absent and set ex-parte. Thereupon award was passed against the petitioner for default as per order dated 02-03-2011 holding that he having not proved his entitlement to the claim his termination from service is only legal and justified.

3. As per order dated 15-04-2011 on IA 20-08-2011 ex-parte award was set aside and the ID was restored to file. Respondent filed Counter Statement thereafter.

4. The averments in the Claim Statement bereft of unnecessary details are as follows:

Petitioner with a study upto 10th Standard appointed as Caretaker in Transit Camp at Koyambedu, SAF Games Village w.e.f. 01-10-1985 having a continuous service of a length of 20 years with last drawn monthly wages of Rs. 8,675 was issued with Charge memo dated 06-06-2005 raising allegations to which he submitted explanation. There was a farce enquiry held with no opportunity for him resulting in his dismissal from service on 14-10-2005 putting him in economic death. He has lost 3 years without employment. His Date of Birth is 12-07-1967. No statutory rule or principles of natural justice were followed in the enquiry. The ID raised having failed culminating in failure report, the reference is caused to be made for a finding that his non-employment is not justified and with prayer for his reinstatement with all benefits.

5. Counter Statement averments briefly read as follows:

G. Ramulu was not a workman. He is managing the Transit Camp at Koyambedu as an independent agency pursuant to a contract with the Respondent and he also engaged an controlled other persons during the contract term. There is no master-servant relationship *inter se* Ramulu and the Respondent. Respondent bound by statutory rules in his functions cannot be directed to do anything against them. Service conditions of employees of the Respondent are governed by the General Insurance (Business) Nationalization Act, 1972. The act has overriding effect over another law/enactment. The cadres/posts under the Company as per the statutory scheme 1974 viz. rationalization and revision of scales and other conditions of service of supervisory/clerical and subordinate staff are; (i) Senior Assistant (ii) Stenographer (iii) Asstt. (C/T) (iv) Record Clerk (v) Sub-Staff (made as Run-Off-Cadre). Respondent a board run company follows recruitment policy "Recruitment procedure for recruitment of Clerical and Subordinate Staff". The said guidelines *inter alia* provide for the sanction of posts, mode of recruitment, appointment authority, eligibility conditions, reservation to various categories. Recruitment normally made are to the posts of Assistants, Stenographers and Sub-Staffs. The posts are

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public posts. Any entry to the posts other than through the mode of recruitment and through the guidelines is illegal. G. Ramulu had not entered against any sanctioned posts. There is no cadre of Caretaker. The claim for reinstatement and regularization is untenable. As per the business requirements company takes on rent or otherwise Guest Houses for providing stay and other arrangements to the clients and officials who visit the office of the company. Their accommodation and other needs are being taken care through Contractors since such are not main business. Thus the Guest House at Koyambedu is managed by Sri G. Ramulu on contractual basis extended by way of renewal from time to time. The terms of contract between the contracting parties include those enumerated as Item (i) to (ix) in Para-13 of the Counter Statement. G. Ramulu had been providing contractual service to the guests since 1985 renewed from time to time with an Assistance engaged by him. Compensation paid had been increased from time to time. G. Ramulu is not employed either on temporary casual basis nor is he a recruited employee. His name is not borne on the muster rolls of the Company. He is not discharging any official, perennial or regular functions of the Company. He is only an independent contractor. He being not an employee, though not bound to conduct an enquiry the company conducted an enquiry following principles of natural justice before termination of his contract. The terms of contract provide for termination of the contract by giving one month notice on either side. He has been given due notice in terminating his contract. Reference is untenable. It is prayed that his claim be dismissed.

6. Points for consideration are:

- (i) Whether the termination from service of Sri G. Ramulu by the United India Insurance Co. Ltd is legal and justified?
- (ii) To what relief the concerned workman is entitled?

7. The evidence consists of the oral evidence of WW1 and Ex.W1 to Ex.W13 (series) on the petitioner's side and oral evidence of MW1 and Ex.M1 to Ex. M7 on the Respondent's side.

#### Points (i) and (ii)

8. Heard both sides. Perused the records, documents, evidence and written arguments on either side. It is argued on behalf of the petitioner that petitioner working as Caretaker in Transit Camp, Koyambedu since 18-03-1986 was being paid pay and allowances excluding HRA payable to Sub-Staff under the amended scheme, 2000 and is an employee. He has had worked for 20 years without any blemish. He is charged out of malice with fictitious and unfounded allegations and with oblique motive to victimize him to see that he is not regularized. It is with a view to terminate the service of the petitioner that he is charged with false allegations of being intoxicated and for

using un-parliamentary words against the Respondent. The petitioner is entitled to regularization as per Tamil Nadu Industrial Establishment (Conferment of Permanent Status to Workman Act), 1981. Punishment is harsh. That the petitioner had been intoxicated is not proved because of his not having been examined by a Doctor to find so. The impugned order is to be set aside with payment of back wages.

9. The contra arguments on behalf of the respondent are that there is no employer-employee relationship inter se and that G. Ramulu is only an independent contractor. The enumerated posts under the service rules of Respondent Corporation to do not take in Caretaker as an employee in the scheme. He was acting only as an independent agency to hold charge of the Transit Camp and keep the same in his control and at his own cost. So he is only an independent contractor and not a workman. The *vinculum juris* created under the agreement is only for contract for service and not contract of service. On that reckoning he cannot be treated as an employee. The Caretaker is not a cadre under the scheme of service for employment. He is not an employee and there is no employer-employee relationship. There does not arise any question of regularization. Respondent is a Public Sector Organization governed by statutory rules cannot be directed to do anything against them. G. Ramulu is not employed on a temporary/casual basis or recruited in terms of the recruitment guidelines. He does not hold any categorized post or sanctioned post for reinstatement. His name is not borne on the muster rolls of the Company. The acts of Ramulu are contrary to the conditions in Para-3 of Ex.W2-Agreement that "Caretaker shall not 9. (a) behave, talk or conduct in an objectionable or indecent manner with the guests or any officials of the Company; (b) shall not smoke or consume alcoholic drinks or other intoxicants at a time during day or night within the premises of the Transit Camp or be in an intoxicated conditions while attending the duties in the Transit Camp". Apart from petitioner having accepted the allegations the same have been proved from the evidence of witnesses examined.

10. The learned counsel for the Respondent invited this Court's attention to the decision of the Apex Court in *INDIAN OVERSEAS BANK VS. WORKMEN* (2006)-3-SCC-729 where a distinction was drawn between regular employees and contract labour on the basis of various tests and it was found that the jewel appraisers are not employees of the bank who have no qualification or age prescription, who are directly engaged by the local manager with no fixed working hours, who has no guaranteed payment but only commission, on whom no disciplinary control, no control/supervision over their work, no retirement age, whose payments not made by the employer and for whom no bar to carry on any other occupation which conditions are to be affirmatively satisfied by the regular employees.



11. Another decision relied on by the Respondent is that of **UPPOWER CORPORATION LTD. AND ANOTHER Vs. BIJLI MAZDOOR SANGH AND OTHERS (2007)-5-SCC-755** where the Apex Court had held as follows "the plea of learned counsel for the Respondent that at the time the High Court decided the matter, decision in **Umadevi(3)** case was not rendered is really of no consequence. There cannot be a case for regularization without there being employee-employer relationship. As noted above the concept of regularization is clearly linked with Article-14 of the Constitution. However, if in a case the fact situation is covered by what is stated in para 45 of **Umadevi (3)** case the industrial adjudicator can modify the relief, but that does not dilute the observations made by this Court in **Umadevi (3)** case about the regularization."

12. In **CHANDRA SEKHAR AZAD KRISHI EVAM PRODYOGIKI VISHWAVIDYALAYA Vs. UNITED TRADES CONGRESS AND ANOTHER (2008)-2-SCC-552** wherein it held that "what was necessary to be considered was the nature of work undertaken by the University. It undertakes projects. For the said purpose, it may have to employ a large number of persons. Their services had to be temporary in nature. Even for that the provisions of Articles 14 and 16 are required to be complied with. In the event, the constitutional and statutory requirements are not complied with, the contract of employment would be rendered illegal."

13. Here is the case of a Caretaker who was admittedly engaged by the Respondent/Management as Caretaker and not as a workmen to manage the Transit Camp as an independent agency under an agreement. The engagement is not against a sanctioned post or made on the basis of any recruitment guidelines. His engagement is to a non-cadre post of Caretaker. When necessitated by business in a Guest House provided by the Management for stay and other facilities to their men in business or Officers intended to be run through Contractor and not as its main business if the Contractor was engaged at the Guest House at Coimbatore for doing everything there which was to be discharged under his own control and at his own cost defining the various duties to be performed by him on a monthly compensation to be paid at the rate fixed from time to time as stipulated in the agreement terminable by one month's notice by either side and is renewable, it could be apt to be contract. According to the Management the enhancement of his emoluments akin to that of a Sub-Staff from time to time adopted as a basis to fix it in a clear and structured manner does not render him in a parity, treatment with the Sub-Staff. The specific case of the Management is that he is not employed on a temporary basis. His name is not in the muster rolls. There is no employer-employee relationship interse. He was not engaged against the avocation with the issuance of any appointment order. The allegation of unfair labour practice

on him so as to deprive him of regularization is not substantiated.

14. The operation of the Guest House even if is one incidental to the main business as to whether he is entitled to be treated as an employee of the Management is a question of fact to be set at rest by cogent evidence in relation to competing claims. Here again the question is whether the engagement of G. Ramulu as a Contractor is merely sham or nominal. That question is to be looked into from the angle of the nature of work undertaken by the Management with the establishment of the Transit Camp. It was undertaken to provide accommodation to the clients and officials of the Management which is engaged in the General Insurance Business for which requirements Respondent had to take on rent or otherwise Guest House which is not part of the main business itself of the Management. That being the case while the project of Guest House was undertaken to meet the purpose it was not possible to make recruitment to the post of Caretaker in the absence of that category borne in the service of the establishment and therefore what could have been envisaged was to have it run by engaging a Contractor laying down the conditions and rules under which he has to act and the remuneration payable to him in lieu of the services rendered. Thus, the workmen happened to be posted as a Caretaker under an agreement. It is clear that the initial appointment was not as an employee. When due regard is given to the fact that the engagement of the Caretaker was made in the context as narrated above whether the same would amount to an unfair labour practice with a view to deprive benefits to the workman by not absorbing him is a crucial aspect. At no stretch of imagination or logic an answer in the affirmative is possible in the background facts of the establishment of the Transit Camp and engagement of the Caretaker. The engagement of the Caretaker commenced admittedly and evidently under an agreement and the same engagement developed and continued as such for a long time. The engagement as Caretaker is against an out cadre post not borne in the service rules or conditions of service of the Management as an enumerated post to which recruitment is to be resorted to. The same seems to be the reason why the engagement of the Caretaker was made in the manner stated under an agreement which is intended to be in the nature of an independent agency to manage the Transit Camp undertaken by the Management as a project to accommodate the visiting clients or the Officers of the Management itself when they have to be provided such facilities in the course of the management of general insurance business with which the Management is concerned. Once the engagement having commenced in the nature of an independent agency created under an agreement its continuance as such for long years has been the special feature with regard to the said post of Caretaker for which the Management cannot be attributed of having

practiced unfair labour practice against the incumbent of the post. Attributing malice of unfair labour practice on the Management is illogical and unreasonable. Though, having regard to the nature of various responsibilities and duties conferred on the Caretaker under the agreement which he has been performing those were only created under the agreement specifically and they cannot be said to have had caused to create any nexus of employer-employee relationship between him and the Management. Though in terms of the various duties and responsibilities performed by him the performer of the same is apt to be an employee in fact such a fact has not grown him into an employee status. In other words the status of the Caretaker still remained as an independent agency. The contract is not sham or nominal. It is from his status as an independent contractor that he has been terminated by the Management as testified by MW1. Therefore, the claim that his termination is to be set aside and he be reinstated is not to be allowed. The petitioner is therefore not entitled to any relief. Action of the Management is only legal and justified.

15. The reference is answered accordingly.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 13th July, 2012).

A. N. JANARDANAN, Presiding Officer

#### Witnesses Examined:—

For the 1st Party/Petitioner : WW1, Sri G. Ramulu

For the 2nd Party/Management : MW1, Sri L. Balaji

#### Documents Marked:

##### On the Petitioner's side

Ex. No.	Date	Description
Ex.W1	18-03-1996	Agreement
Ex.W2	16-11-2001	Agreement between Respondent and Petitioners
Ex.W3	16-09-2003	Order copy of WP No. 19003 of 2000
Ex.W4	19-06-2005	Requisition letter by petitioner

Ex.W5	06-07-2005	Letter of regularization of services by Petitioner
Ex.W6	14-10-2005	Termination letter from Respondent
Ex.W7	07-11-2005	Appeal for Consideration
Ex.W8	05-12-2005	Cash Payment Voucher
Ex.W9	19-01-2006	Appeal letter by petitioner
Ex.W10	06-02-1987	Memorandum of Respondent
Ex.W11	20-01-1997	Regularization of Contract Labour
Ex.W12	13-01-1992	Remuneration to Caretakers
Ex.W13	04-12-1997	to Salary Voucher
	05-12-2005	

##### On the Management's side :

Ex. No.	Date	Description
Ex. M1	19-05-2005	Complaint filed by M.P. Vinayi Kumar, Sri Pradeep Kumar and M.F. Sowry against the petitioner
Ex. M2	01-06-2005	Complaint filed by Mr. Captain G. Seran, Security Office against the petitioner
Ex. M3	01-06-2005	Complaint filed by M.F. Sowry, M. Pradeep Kumar and R. Jagan against the petitioner
Ex. M4	06-06-2005	Show Cause Notice issued to the petitioner
Ex. M5	29-08-2005	Questioning of the Enquiry Officer
	30-8-2005	Officer
Ex. M6	02-09-2005	Report of the Enquiry Officer
Ex. M7	14-10-2005	Termination Order issued by the Respondent.



नई दिल्ली, 7 सितम्बर, 2012

का.आ. 3065.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार वगना क्षेत्रीय ग्रामीण बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नागपुर के पंचाट (संदर्भ संख्या 58/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 07-09-2012 को प्राप्त हुआ था।

[सं. एल-12012/147/2007-आई.आर.(बी-1)]

रमेश सिंह, डेस्क अधिकारी

New Delhi, the 7th September, 2012

S.O. 3065.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 58/2007) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, NAGPUR as shown in the Annexure, in the industrial dispute between the management of Vaingana Kshetriya Gramin Bank and their workmen, received by the Central Government on 07-09-2012.

[No. L-12012/147/2007-IR(B-I)]

RAMESH SINGH, Desk Officer

#### ANNEXURE

**BEFORE SHRI J.P. CHAND, PRESIDING  
OFFICER, CGIT-CUM-LABOUR COURT, NAGPUR**

Case No. CGIT/NGP/58/2007 Date : 29-08-2012.

**Party No. 1** : The In-Charge Officer on Special Duty, Vaingana Kshetriya Gramin Bank, Bhandara Regional Office: Shri Shyam Bhawan, Dr. Radhakrishnan Ward, Dist- Bahandara

#### *Versus*

**Party No. 2** : Sri Waquar Ahmed Sheikh, R/o. Kanhar Toli, Patel Ward, Near J.M. High School, Main Branch, Gondia (MS)

#### AWARD

(Dated : 29th August, 2012)

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of Industrial Disputes Act, 1947 (14 of 1947) ("the Act" in short), the Central Government has referred the industrial dispute between the employers, in relation to the

management of Vainganga Kshetriya Gramin Bank and their workman, Shri Waquar Ahmed Sheikh, for adjudication, as per letter No. L-12012/147/2007-IR (B-I) dated 14-11-2007, with the following schedule :—

"Whether the action of the Vainganga Kshetriya Gramin Bank awarding the punishment of dismissal from the Bank service to the applicant Shri Waquar Ahmed Sheikh, is justified? If not, to what relief the workman is entitled?"

2. On receipt of the reference, parties were noticed to file their respective statement of claim and written statement, in response to which, the workman Shri Waquar Ahmed Sheikh, ("the workman" in short) filed the statement of claim and the management of Vainganga Kshetriya Gramin Bank, Bhandara ("party No. 1" in short) filed the written statement.

The case of the workman as projected in the statement of claim is that he was appointed as a clerk w.e.f. 02-01-1985 and while he was working at Salekasa Branch of the bank, charge sheet dated 19-06-2002 was given to him and a regular departmental enquiry was ordered and one Shri K.R. Telmasre was appointed as the enquiry officer and the enquiry officer conducted the departmental enquiry on 07-05-2004 and 08-07-2005 and declared the charges to have been proved against him and on the basis of the findings of the enquiry officer, the Disciplinary Authority awarded the punishment of dismissal of services against him vide order dated 18-02-2006 and he challenged the order by preferring an appeal before the Appellate Authority, but the appeal came to be dismissed by the Appellate Authority. It is further pleaded by the workman that in the charge sheet dated. 19-6-2002, the allegations against him were that while he was working at Salekasa Branch of the Bank, he received a sum of Rs. 98,000 from 7 persons and tendered the counterfoils of all such receipts to the said account holders after putting the round seal of the Bank and his initial on the same, in token of having received the said amount from the concerned persons, but did not account for the said amount in the concerned accounts and misappropriated the said amount and he denied all the allegations and therefore, the disciplinary authority ordered for the departmental enquiry and the enquiry officer gave his findings on 08-07-2005, holding all the charges levelled against him to have been proved and for arriving at such findings, the enquiry officer heavily relied upon the report of the handwriting expert filed on the record, but the said handwriting expert was not produced as a witness in the departmental enquiry, so he represented to the disciplinary authority on the said count and objected the findings of the enquiry officer and the disciplinary authority to correct the mistake committed by the enquiry officer, directed to re-open the departmental enquiry and the handwriting expert was asked to appear as a witness for the management and he was allowed to cross-examine the said expert, by the handwriting expert

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engaged by him and the cross-examination of the handwriting expert demonstrates that the impression carried out by the witness in his report could not be said to be correct beyond every shadow of doubt and the witness could not withstand the scrutiny of law and facts involved in his report and therefore, the enquiry officer should not have relied on such evidence and the disciplinary authority did not allow him to examine a handwriting expert from his side or to re-cross examine the other witnesses, who were already examined, even though such re-cross examination of the witnesses was required, in view of the examination of the handwriting expert and therefore, it cannot be said that the enquiry was fair and the same enquiry officer finally gave his findings on 08-07-2005, holding the charges to have been proved and the requirements of natural justice warranted the change of the enquiry officer as the enquiry officer in his first findings dated 07-05-2004 had already declared all the charges to have been proved, but the same was not done and the already biased and prejudiced enquiry officer just completed the formality of cross-examination of the handwriting expert and without considering the effects of the facts and law brought during the course of the cross-examination, gave his findings declaring all the charges to have been proved and therefore, the findings of the enquiry officer were mechanical and unfair and therefore, the enquiry is required to be declared invalid and there was no supporting evidence to substantiate the charges leveled in the charge sheet and the enquiry officer failed to appreciate the facts, which go to the root of the charges. The further case of the workman is that one Shri S.B. Pande was the previous branch manager of Salekasa Branch, who sanctioned loan to the Complainants and one Shri Shende was previously working as a sub-staff at Salekasa branch and Shri Pande hand in glove with Shri Shende was involved in a series of irregularities and misappropriation and he being the cashier at that point of time, reported about the misappropriation to the head office of the bank and upon enquiry, both Shri Pande and Shri Shende came to be dismissed from services of the bank and the misappropriation done by Shri Pande was such an extent that bank was required to give public advertisement/notice inviting customers to suggest as to what amount had been deposited by them with Shri Pande and Shri Shende and as the dismissal of Shri Pande and Shri Shende was at his initiative, the same created vengeance in their mind and it is evident that they were looking for the opportunity to involve him in some trouble and the round seal is normally used by the branch manager and the principle of preponderance of probability suggests that it was Shri Pande, who by remaining behind the curtain played the conspiracy and tried to bring him in trouble, by applying the round rubber stamp on the bogus and frivolous counterfoils produced in this case and the above probability should have been taken into account by the enquiry officer, before declaring the charge to have been

proved, but the enquiry officer failed to consider the above aspect and gave his findings in a most mechanical manner and by doing so, the enquiry officer committed error of law and the enquiry officer also committed serious error in evaluating the evidence on record and the findings of the enquiry officer are perverse and the order of punishment passed against him is unfair and unjustified and is required to be set aside. The workman has prayed to quash and set aside the order of dismissal from services dated 18-02-2006 and for his reinstatement in service with full back wages and all other consequential benefits.

3. The party No. 1 in its written statement has pleaded *inter-alia* that serious irregularities were noticed by the management in the working of Salekasa branch of the bank and after detailed investigation and on receipt of complaints from various customers, it was noticed that the employees working in Salekasa Branch were engaged in misappropriation of amounts deposited by the customers in their accounts and accordingly, management issued charge sheets against Mr. S.B. Pande, the Branch Manager, and Mr Shinde, the sub-staff and as they were found guilty of misappropriation of huge amount of money, in the enquiry, both of them were dismissed from services and during the course of the enquiry conducted against the said employees and on receipt of complaints from various customers against the workman, it came to light that the workman while working in Salekasa branch, had received different amounts from the customers for deposit in their loan account and issued counterfoil receipts to the account holders by affixing the bank's round seal under his initial, in token of having received the money, but he failed to account for the amount so received from the customers, in the books of accounts of the bank and the bank's cash and the workman failed to deposit a total amount of Rs. 98000 in seven accounts of the various customers and considering the gravity of the misconduct, a charge sheet was submitted against him on 19-06-2002 and the workman submitted his reply to the charge sheet, but as the reply was found not be satisfactory, Shri K.R. Telmasare was appointed as the enquiry officer to conduct the enquiry and the enquiry officer followed the principles of natural justice during the course of the enquiry and the workman was permitted to engage his defence representative and copies of all the documents were supplied to the workman and witnesses were examined in presence of the workman and the workman also examined witnesses in his defence and the enquiry officer with the consent of the parties closed the enquiry and the representatives of the parties submitted their respective notes of argument before the enquiry officer and the enquiry officer after considering the evidence adduced by the parties before him and taking into consideration the documents placed on record of the enquiry, vide his report dated 08-07-2005 declared the charges to have been proved and the enquiry officer has considered each and every aspect and has given detail

reasonings for arriving at the conclusion and the enquiry report is perfectly legal and justified and the enquiry was conducted in accordance with the principles of natural justice and after submission of the enquiry report, a show cause notice was issued to the workman and he was also granted the opportunity of personal hearing and considering the gravity of misconduct committed by the workman, the punishment of dismissal from services was imposed against him and the appeal filed by the workman was also dismissed by the appellate authority by a detailed and reasoned order and it is a financial institution and the staff members are dealing with public money and as such, high level of integrity from the staff members is necessary and the workman was required to work with integrity and sincerity and in view of the misconduct committed by him, his integrity became doubtful and as such, punishment imposed against him is justified and it has lost faith in the workman and the workman is not entitled for any relief.

4. As this is a case of dismissal of the workman from services, after holding a departmental enquiry, the validity of the departmental enquiry was taken as a preliminary issue for consideration and by order dated 19-01-2012, the departmental enquiry conducted against the workman was held to be legal, proper and in accordance with the principles of natural justice.

5. At the time of argument, it was submitted by the learned advocate for the workman that the workman while working at Salekasa Branch of party No. 1 was served with the charge sheet on the allegation of misappropriation of an amount of Rs. 98,000.00 received from seven customers of the bank, but not accounted for the said amount in the concerned accounts of the customers and the enquiry officer declared all the charges levelled against the workman to have been proved, basing only on the evidence of the handwriting expert and it is clear from the cross-examination of the said handwriting expert that the findings given by him in his report cannot be said to be correct beyond doubt and in other words, it can be said that the handwriting expert did not with stand the scrutiny of law and fact involved in his report and therefore, the enquiry officer should not have relied on such evidence for holding the workman guilty of the charges and as such, the findings of the enquiry officer having based on such unreliable evidence are perverse. It was further contended by the learned advocate for the workman that except the unreliable evidence of the handwriting expert, there is no other evidence to substantiate the charges and the enquiry officer has not analyzed the evidence produced in the enquiry and he has also not assigned any reason in support of his findings and the enquiry officer should not have relied upon the complaints submitted by the loan account holders against the workman, as they were wilful defaulters for a long time and as their claim of depositing the amounts was based on unauthorized, doubtful, bogus and frivolous counterfoils and specially in the background that the

workman had reported about the misappropriation being done by Shri S.B. Pande, the Manager of the branch and Shri Shende, a sub-staff to the Head Office of the Bank and upon enquiry, Shri Pande and Shri Shende came to be dismissed from service. It was further submitted by the learned advocate for the workman that the dismissal of Shri Pande and Shri Shende was at the initiative of the workman created vengeance in their mind and the principle of preponderance of probability vehemently suggests that it was Shri Pande, who played conspiracy and tried to involve the workman in trouble by applying the round rubber stamp on the bogus and frivolous counter foils produced in this case and the enquiry officer failed to consider the above aspect and gave his findings in a most mechanical manner. The further contentions raised by the learned advocate for the workman was that the past clean and unblemished service record of the workman was not considered at the time of imposition of the punishment of dismissal of the workman from services by the disciplinary authority and the punishment is shockingly disproportionate and as such, it is necessary to set aside the order of punishment by exercising the powers under Section 11-A of the Act and to reinstate the workman in service with continuity and full back wages.

6. Per contra, it was submitted by the learned advocate for the party No. 1 that the departmental enquiry conducted against the workman has already been held to be legal, proper and in accordance with the principles of natural justice by order dated 19-01-2012 and the workman misappropriated an amount of Rs. 98,000 received from him from seven loanees of the Bank for deposit of the said amount in their respective accounts and for that he was charge sheeted and in the disciplinary proceedings, he was found guilty of the charges by the enquiry officer and the findings of the enquiry officer are based on the evidence adduced in the disciplinary proceedings and the enquiry officer has given his findings by analyzing the evidence in a rational manner and assigning cogent reasons for arriving at the findings and the enquiry officer has also duly considered the claim of the workman of alleged false implication by the Branch Manager, Shri Pande and found the claim to be not tenable and the findings of the enquiry officer are not at all perverse. It was submitted further by the learned advocate for the Party No. 1 that unless and until the punishment is found wholly disproportionate to the misconduct proved, there is no scope for the Tribunal normally to interfere with the punishment and serious misconduct of misappropriation of money has been proved against the workman, who was working as a cashier in the bank and the bank has lost confidence in the workman and as such, the dismissal of the workman from services is just and proper and in a case of misappropriation, there is need to consider the past record of the employee while imposing the sentence.

In support of such contentions, the learned advocate

for Party No. 1 placed reliance on the decisions reported on AIR 2000 SC 3219 (Janatha Bazar Vs. Secretary, Sahakari Nonarana Sangh), AIR 2004 SC-4828 (Regional Manager, Rajasthan S.R.T.C Vs. Sohanlal) and 2012 (2) Bom. C.R. 47 (Asarn Dagduji Pawar Vs. Divisional Controller, M.S.R.T.C.)

7. Before delving into the merit of the case, I think it apropos to mention about the principles enunciated by the Hon'ble Courts in the decisions cited by the learned advocate for the Party No. 1.

In the decision reported in AIR 2000 SC-3219 (Supra), the Hon'ble Apex Court have held that :

"Industrial Disputes Act (14 of 1947), Sch. 2, Items 3, S. 11-A- Reinstatement-Charges of breach of trust and misappropriation of goods established -- Reinstating the employee in service, unjustified-Fact that misappropriation is for small or large amounts, or that past record of employee is unblemished, irrelevant."

8. In the judgment reported in AIR 2004 SC-4828 (Supra), the Hon'ble Apex Court have held that :

"(B) Constitution of India, Art. 311—Road Transport Corporations Act (64 of 1950) S. 45- Interference with quantum of sentence awarded-Termination of service on ground of misconduct—Unless sentence is wholly disproportionate to misconduct proved—Superior Courts should not normally interfere.

(C) Constitution of India, Art. 311-Dismissal from service-Loss of confidence-Misconduct by delinquent conductor of not issuing tickets to passengers-Since misconduct proved is one of dishonesty-Quantum of monetary loss is immaterial and it is loss of confidence in workman that matter-Dismissal proper."

9. In the judgment reported in 2012 (2) Bom. C.R. —47 (Supra), the Hon'ble High Court have held that :

"Industrial Disputes Act, 1947, Sec 11-A-Reissue of bus ticket-Petitioner was served with charge sheet alleging he has reissued ticket-Further alleged tickets were found in bag of petitioner-Enquiry conducted-Spot statement and statement of enquiry recorded-Petitioner submits after two years of incident enquiry started there was violation of rules and principles of natural justice-Petitioner dismissed from services-Petitioner filed dispute before Labour Court and reference made under provision of Act-Learned Labour Court rejected same hence this petition-Petitioner submits Labour Court failed to give benefit of provision of Section 11-A of Act-Held, Court found, nothing has demonstrated to hold findings recorded by Labour Court are perverse in any manner. Absence of petitioner before Labour Court during crucial period i.e. at time of recording of

evidence and filing of pursis before Labour Court shows he had no case and conveniently remained absent. Petitioner not availed opportunity to participate either in enquiry or before Labour Court at crucial stage. Misconduct of petitioner proved. Hon'ble Supreme Court held in 2000 DGLS (Soft.) 1452, amount small or large is not question of showing uncalled for sympathy. Petitioner admitted Rs. 14.50 was found less in spot statement. No case is made out for interference."

10. At this juncture, I think it necessary mentioned that it is consistently held and accepted by the Hon'ble Apex Court that strict rules of evidence are not applicable to the proceedings, before the Labour Court/Tribunal. It is also well settled that the jurisdiction of the Tribunal to interfere with the disciplinary matters or punishment cannot be equated with an appellate jurisdiction and the Tribunal cannot interfere with the findings of the enquiry officer or competent authority where they are not arbitrary or utterly perverse. The power to impose penalty on a delinquent officer is conferred on the competent authority either by an act of legislature or rules made under the provision of Art. 309 of the Constitution. If there has been an enquiry consistent with the rules and in accordance with principles of natural justice what punishment would meet the ends of justice is a matter exclusively within the jurisdiction of the competent authority. If the penalty can lawfully be imposed and is imposed on the proved misconduct, the Tribunal has no power to substitute its own discretion for that of the authority. The adequacy of penalty unless it is mala fide is certainly not a matter for the Tribunal to concern itself with. The Tribunal also cannot interfere with the penalty if the conclusion of the enquiry officer or the competent authority is based on evidence. It is also well settled that a disciplinary proceeding is not a criminal trial and the standard or proof required is that of preponderance of probability and not proof beyond reasonable doubt.

11. So, keeping in view the principles settled by the Hon'ble Courts in the decisions mentioned above and the settled principles regarding the power of the Tribunal to interfere with the findings and punishment imposed by the authorities in a departmental enquiry, now, the present case in hand is to be considered.

12. In this case, after going through the materials on record including the documents relating to the domestic enquiry held against the workman, it is found that the enquiry officer has dealt with the allegations made against the workman one after the other chronologically. He has also mentioned the evidence produced in support of the allegation the submission made by the parties in support of acceptance and rejection of the evidence and he has assigned cogent reasons in support of his findings after analyzing the evidence. The findings of the enquiry officer are based on the evidence adduced in the enquiry. From

the materials on record, it also cannot be said that this is a case of no evidence and the findings given by the enquiry officer cannot be arrived at by a prudent man on the evidence available on record. Hence, the findings of the enquiry officer cannot be said to be perverse.

13. No material has been placed on record to show that there was false implication of the workman by the Ex-Branch Manager, Shri Pande.

14. In the instant case, the workman was found guilty of misappropriating the Bank's funds, so, there was nothing wrong in the Bank losing confidence or faith in such an employees and awarding punishment of dismissal. In such cases, there is no place for generosity or misplaced sympathy and to interfere with the quantum of punishment.

15. Applying the principles enunciated by the Hon'ble Courts as mentioned in the decisions cited by the learned advocate for the party no. 1 to the case in hand, it was not necessary for the disciplinary authority to consider the past record of the workman, while imposing the punishment. The punishment of dismissal of the workman from services cannot be said to be not commensurate with the misconduct, proved against him in a properly conducted departmental enquiry.

From the materials on record and the discussions made above, it is found that there is no ground to interfere with the punishment imposed against the workman. Hence, it is ordered :-

### ORDER

The action of the Vainganga Kshetriya Gramin Bank awarding the punishment of dismissal from the Bank service to the applicant Shri Waquar Ahmed Sheikh, is justified. The workman is not entitled to any relief.

J.P. CHAND, Presiding Officer

नई दिल्ली, 7 सितम्बर, 2012

का. आ.3066.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार दक्षिण रेलवे के प्रबंध तंत्र के संबंधित नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ संख्या 36/2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को 07-09-2012 को प्राप्त हुआ था।

[सं. एल-41012/14/2012-आई.आर. (बी-1) ]

रमेश सिंह, डेस्क अधिकारी

New Delhi, the 7th September, 2012

S.O. 3066.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central

3628 95/13-8

Government hereby publishes the Award (Ref. 36/2012) of the Central Govt. Industrial Tribunal-cum-Labour Court, Chennai as shown in the Annexure, in the industrial dispute between the management of Southern Railway, and their workmen, received by the Central Government on 07-09-2012.

[No. L-41012/14/2012-IR (B-I)]

RAMESH SINGH, Desk Officer

### ANNEXURE

### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Tuesday, the 4th September, 2012

Present : A.N. JANARDANAN, Presiding Officer

### INDUSTRIAL DISPUTE No. 36/2012

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of Southern Railway and their Workman)

### BETWEEN

Sri V. Raju : 1st Party/Petitioner Union

Vs.

The Divisional : 2nd Party/Respondent

Railway Manager

Southern Railway

Madurai Division

Madurai

### Appearance:

For the 1st Party/ : Defaulted to appear

Petitioner Union

For the 2nd Party/ : Sri D. Simon, Advocate

Management

### AWARD

The Central Government, Ministry of Labour & Employment vide its Order No. L-41012/14/2012-IR(B-I) dated 15-06-2012 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is:

“Whether the action of the Management of Southern Railway, Madurai in terminating of service of Sri V. Raju who was working as Cleaner in Divisional Office Canteen w.e.f. 31-12-1985, is legal and justified? To what relief the workman is entitled?”

2. After the receipt of Industrial Dispute, this Tribunal has numbered it as ID 36/2012 and issued notices to both sides. Respondent entered appearance through Advocate. Despite notice sent and served on the first party twice, petitioner did not appear in person or through Advocate. Thereafter when the matter stood posted from time to time lately on today, the 03-09-2012 for further steps, petitioner was absent nor represented. No Claim or Counter Statement has been filed.

### 3. Points for consideration are:

- (i) Whether termination from service of Sri V. Raju, Cleaner, Divisional Office Canteen, Madurai w.e.f. 31-12-1985 is legal and justified?
- (ii) To what relief the concerned workman is entitled?

### Points(i) & (ii)

4. The petitioner has neither entered appearance nor put forth any evidence in support of his case for answering the reference. Needless to say it is upon the petitioner to substantiate his case that his termination from service by the Management is not legal and justified, if it is actually so. When he wishes the Court to be satisfied and made believe that it is so it is for him to discharge that burden which has not been done. The inevitable conclusion is that his termination from service by the Management is only legal and justified and he is not entitled to any order to the contra.

5. The reference is answered accordingly.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 4th September, 2012)

A.N. JANARDANAN, Presiding Officer

### Witnesses Examined:

For the 1st Party/Petitioner Union : None  
For the 2nd Party/1st Management : None

### Documents Marked:

#### On the Petitioner's side

Ex. No.	Date	Description
		N/A

#### On the Management's side

Ex. No.	Date	Description
		N/A

नई दिल्ली, 10 सितम्बर, 2012

का. आ.3067.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम

न्यायालय, कानपुर के पंचाट (संदर्भ संख्या 21/03) को प्रकाशित करती है, जो केन्द्रीय सरकार को 10-09-2012 को प्राप्त हुआ था।

[सं. एल-12012/97/2002 आई.आर. (बी-1) ]

रमेश सिंह, डेस्क अधिकारी

New Delhi, the 10th September, 2012

**S.O. 3067.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947) the Central Government hereby publishes the Award (Ref. 21/03) of the Central Govt. Industrial Tribunal-cum-Labour Court, Kanpur as shown in the Annexure, in the industrial dispute between the management of State Bank of India, and their workmen, received by the Central Government on 10-09-2012.

[No. L-12012/97/2002-IR (B-1)]

RAMESH SINGH, Desk Officer

### ANNEXURE

**BEFORE SRI RAM PARKASH, IJS, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, KANPUR,**

**Industrial Dispute No. 21 of 03**

### Between

Sri Vinod Kumar  
C/o of Sri O P Mathur,  
117/K/36 Sarvodaya Nagar,  
Kanpur.

### And

The Deputy General Manager,  
State Bank of India,  
Zonal Office  
Mall Road,  
Kanpur.

### AWARD

1. Central Government Mol New Delhi vide notification no. L-12012/97/2002-IR(B-I) dated 18-07-03 has referred the following dispute for adjudication to this tribunal.

2. Whether the action of the management of the management of State Bank of India in terminating the services of Sri Vinod Kumar with effect from July, 1992 and thereafter non considering his name for re-employment while reemploying others including the recruitment of fresh hands is legal and justified? If not what relief the applicant is entitled?



3. Brief facts are.—

4. Claimant has alleged that he was engaged by the opposite party State Bank of India at its Regional Office at the post of Messenger in the month of April 1988. The post against which the claimant was engaged was a permanent post and the work which was performed by him was also permanent nature. Although the claimant ought to have been regularized by the opposite party but instead he was removed from the service with effect from 29th June, 1992. It is alleged by the claimant that the engagement of the claimant was at full rate wages and allowances. It is further pleaded by the claimant that after the termination of the claimant the bank appointed fresh hand which amounts to unfair labour practice and is violative of section 25G of the Industrial Disputes Act, 1947. It is also alleged that at the time of engagement he was interviewed by the authorities of the bank and he also submitted his testimonials and it is only after that he was engaged by the bank.

5. It is stated that the bank made an advertisement for regularizing the services of the old workers working in the bank. The claimant also submitted his application in pursuant to the said advertisement and he was interviewed and his name was placed in the merit list prepared by the bank. This merit list is called as waiting list by the bank. The claimant approached higher officers of the bank and was given assurance that he will be engaged in near future at some place. The management appointed several fresh hands but despite giving assurance he was not given employment by the bank thus the bank breached the provisions of section 25H of the Act also. In paragraph no.14, the applicant has disclosed the names of several persons who have been engaged by the bank ignoring the claim of the claimant. At last it is alleged by the claimant that the whole action of the bank on the basis of aversions made in the claim statement is illegal and ab initio void, therefore, the claimant is entitled to be reinstated in the service of the opposite party with full back wages, seniority and all consequential benefits.

6. The opposite party has vehemently refuted the claim of the claimant on a number of grounds, *inter-alia*, the present dispute does not fall within the definition of Industrial Dispute as enshrined under Section 2-A of the Act, that section 25H of the act are not applicable in the case of the claimant as this provision would attract only to a retrenched permanent employee as per provisions of section 25F read with section 25B of the Act, that the present claim is highly belated, that the claim of the claimant is not maintainable in the eye of law as the Writ Petition on behalf of the claimant is filed bearing no. 22554 of 2000 for the same issue which is still pending before the Hon'ble High Court, Allahabad and this fact has not been brought before the tribunal by the claimant.

7. On merit it is admitted by the bank that the claimant was engaged on temporary basis, between, April, 88 to June, 88. During this period he had worked for 53 days only. The allegations levelled by the claimant have seriously been refuted by the bank stating that the bank is a public sector undertaking and works under strict rules and regulations, therefore, question adopting unfair labour practice by the bank does not arise. There was an agreement between the State Bank and Staff Federation on 18-11-87 and 27-10-88, in pursuance of the aforesaid agreement all temporary employees were given an opportunity to appear in examination/interview and be a competitor on merit. The claimant also participated in that process without any protest and appeared before the interview committee on 07-08-89 and he was found suitable and his name figured at serial no. 14 of wait list prepared in this regard. The wait list as per settlement expired way back in 1997 and wait listed persons do not have any right of appointment on that basis after panel has lapsed. It is denied that any officer of the bank had extended any assurance to the claimant for his reemployment in the service of the bank. It is also admitted by the bank that a wait list was also prepared as per settlement in this regard and said wait list was expired on 31-03-97. No appointment was made on the priority of waiting list after expiration of its validity on 31-03-97. The question of termination does not arise in the case of the claimant as he was not a permanent employees, he was engaged for short period in the year of 1988 in the month of April, May and June for 11 days, 22 days and 20 days respectively by the bank and for the rest the claimant is put to strict proof. In the end it is stated that the bank has never breached any of the provisions of the Act, nor the applicant was never engaged by the bank in the manner stated by the claimant in his claim, therefore, the claim of the claimant is devoid of merit and is liable to be rejected. Consequently the claimant is not entitled for any relief as claimed by him.

8. Both parties have adduced oral as well as documentary evidence.

9. Whereas the claimant has examined himself as ww. 1, the bank examined its Chief Manager MP Kamal as m.w. 1.

10. Claimant has filed original appointment letter dated 02-12-91 paper no. 22/2 vide list of document dated 01-08-2008. Workman has also filed photocopy of the claim filed before ALC(C) Kanpur and reply of the bank.

11. Bank has also filed photocopies of settlement dated 17-11-87, 16-07-88, 27-10-88, 09-01-91 and 09-06-95, certified copy of working certificate dated 01-08-88, certified copy of application 22-08-88 and 17-07-89, copy of claim submitted before AL© and reply before ALC © vide list dated 07-05-07. Bank has also filed certified copy of waiting list vide paper no. 19/1 submitting that the name of the claimant is appearing at serial no. 14.

12. Heard the arguments and perused the records carefully.

13. M.W.1 Sri M.P. Kamal has stated on oath that for the appointment on the post of sub staff in the bank there is a prescribed procedure and claimant Sri Vinod Kumar was never appointed by following any prescribed procedure or issuing appointment letter. It is stated that Sri Vinod Kumar was engaged in between April 1988 to June 1988 and he worked for only 53 days as a canteen boy during the leave vacancy. This fact is also established as the claimant has moved an application which is paper no. 28/25-28. This is an application which was moved by the claimant for appearing in an interview when some vacancies of messenger level were required to be filled up.

14. It is claimed by the bank that the claimant did not work thereafter. Opposite party has specifically stated that the letter paper no. 22/2 is a false one.

15. I have gone through the contents of this letter. In this letter which is alleged to be a appointment letter as claimed by the claimant by the workman it has been mentioned that Sri Vinod Kumar is hereby appointed as a temporary canteen staff at this office for a period of 29 days ending on 30-12-91 with effect from 02-12-91 on a salary of as per bank rules. Its authenticity has been challenged by the opposite party. The present case is of the year 2003. This letter has been filed by the claimant not at the initial stage but in the year 2009 after moving an application.

16. Now a point arises, that if it is an appointment letter though not fully proved by the claimant where the burden initially lies upon him, then what was the necessity of getting such an appointment letter at the belated stage and at the last stage, whereas the claimant himself claimed that he is continuously working since 1988 and he was appointed as a regular candidate.

17. Considering the contention of the opposite party cognizance cannot be taken of such kind of appointment letter.

18. It has been contended by the bank that there was an agreement between the Staff Federation and the Bank to make the temporary employs as permanent. This agreement took place in the year 1987, 1988, 1991 and 1995. Bank has also filed the copies of this agreement which are paper no. 18/2-23. Under this agreement Vinod Kumar has applied and he was interviewed and he was also found suitable. A penal was prepared of the selected candidates which as per contention of the bank is called as wait list which is paper no. 19/2-3 and the name of the claimant figured at serial no. 14. This wait list was prepared on the basis of length of service. Wait list was prepared by the bank considering the number of working days of the candidate.

19. It is also the case of the bank that the initial agreement took place between the bank and the Federation

in the year 1987 was for filling up the vacancies falling up to 1991 due to retirement of the regular and permanent employees. Thereafter after this agreement continues to go on and it finally lasted on 31-12-97. Since the name of the claimant could not appeared at the waiting position by the bank therefore he could not be given appointment. Moreover it may be clarified that since the vacancy could not took place and the claimant despite having position at serial no. 14 in the waiting list and since the penal exhausted on 31-12-97, therefore, he could not be given appointment.

20. It is argued by the authorized representative for the claimant that this waiting list is not genuine as the same has not been prepared on a prescribed proforma and it is a photocopy. I have examined all these aspect.

21. I would like to say that the claimant has applied in the year 1989, and he was found selected thereafter. But as the claimant is claiming that so many candidates like Sri Vijay Singh and others as mentioned in Para 14 of the claim statement have been engagement after his termination. Though this fact has been denied by M.W.1, I would like to say that if there was any malafide on the part of the management, when he was not given appointment on the basis of selection/waiting list, it was expected from him that he should have raised a voice against the management then and there if any arbitrariness was being committee by the management but he did not raise any hue and cry before the management and he raised the dispute in the year 2003 that at much belated stage without giving any explanation for delay in raising the dispute.

22. This reference is in many parts.

23. First of all the claimant has to prove that he had continuously worked for 240 days before the date of his termination July 1992. I have already found that the appointment letter paper no. 22/2 cannot be considered as genuine except this there is no other solid evidence from which it may be inferred that he has completed and worked continuously for more than 240 days in a calendar year preceding the date of his termination as is the prerequisite qualification of section 25F of the Act.

24. Now coming to the second part of the reference order in denying reemployment of the workman in the service by the bank on the basis that other persons have been reemployed including the fresh hands.

25. The opposite party has refuted the contention of the claimant. Even the opposite party has called from the claimant to file better particulars about the persons named in Para 14 of their claim statement but the claimant failed to provide the same before the tribunal.

26. Therefore, the tribunal is not inclined to believe the case of the claimant that fresh hands were employed after the termination of the workman.



27. Having concluded that the workman has miserably failed to prove his case before the tribunal that he at any point of time had rendered continuous service for 240 days or more before termination of his service, therefore, he is not entitled for any relief as claimed by him pursuant to the reference order. Therefore, the reference is bound to be answered against the claimant and in favour of the bank.

28. Reference is answered accordingly.

RAM PARKASH, Presiding Officer

नई दिल्ली, 10 सितम्बर, 2012

का.आ.3068.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई.सी.एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, आसनसोल के पंचाट (संदर्भ संख्या 155/1999) को प्रकाशित करती है, जो केन्द्रीय सरकार को 10-09-2012 को प्राप्त हुआ था।

[सं. एल-22012/124/1999-आई आर (सी-II)]

बी. एम. पटनायक, अनुभाग अधिकारी

New Delhi, the 10th September, 2012

S.O. 3068.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 155/1999 of the Central Government Industrial Tribunal-cum-Labour Court, Asansol as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of ECL and their workman, which was received by the Central Government on 10-09-2012.

[No. L-22012/124/1999-IR(C-II)]

B. M. PATNAIK, Section Officer

#### ANNEXURE

#### BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ASANSOL.

PRESENT: Sri Jayanta Kumar Sen, Presiding Officer

REFERENCE NO. 155 OF 1999.

PARTIES: The Asst. General Secretary, KMC, Asansol (WB).

Vs.

The Agent, Madhujore Colliery, M/s ECL, Burdwan (W.B.)

#### REPRESENTATIVES:

For the management : Sri P.K. Das. Ld. Advocate

For the union (Workman) : None

3628 27/13-9

Industry : Coal

State: West Bengal

Dated—08-08-12

#### AWARD

In exercise of powers conferred by clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), Govt. of India through the Ministry of Labour vide its letter No. L-22012/124/99-IR (CM-II) dated 08-09-1999 has been pleased to refer the following dispute for adjudication by this Tribunal.

#### SCHEDULE

“Whether the action of the management of Madhujore Colliery of M/s. ECL in dismissing Sh. Suku Majhi, Trammer from services is legal and justified? If not, what relief the workman is entitled to?”

Having received the Order of Letter No. L-22012/124/99/IR(CM-II) dated 08-09-1999 of the above said reference from the Govt. of India, Ministry of Labour, New Delhi for adjudication of the dispute, a reference case No. 155 of 1999 was registered on 23-09-1999 and accordingly an order to that effect was passed to issue notices through he registered post to the parties concerned directing them to appear in the court on the date fixed and to file their written statements along with the relevant documents and a list of witnesses in support of their claims. In pursuance of the said order notices by the registered post were sent to the parties concerned.

It was submitted by the Union that the case may be closed as the workman has already joined in service and is no more interested to contest the case. Since the workman is no more interested to proceed with the case further, the case is closed and accordingly an order of “No Dispute” is hereby passed.

#### ORDER

Let an “Award” be and the same is passed as no dispute existing. Send the copies of the order to the Govt. of India, Ministry of Labour, New Delhi for information and needful. The reference is accordingly disposed of.

JAYANTA KUMAR SEN, Presiding Officer

नई दिल्ली, 10 सितम्बर, 2012

का.आ. 3069.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डब्ल्यू.सी.एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 75/2000

को प्रकाशित करती है, जो केन्द्रीय सरकार को 10-09-2012 को प्राप्त हुआ था।

[सं. एल-22012/421/1999-आई आर (सी-II)]

बी. एम. पटनायक, अनुभाग अधिकारी

New Delhi, the 10th September, 2012

**S.O. 3069.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 75/2000 of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of WCL and their workman, which was received by the Central Government on 10-09-2012.

[No. L-22012/421/1999-IR (C-II)]

B. M. PATNAIK, Section Officer

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/75/2000

PRESIDING OFFICER : SHRI MOHD. SHAKIR HASAN

The Secretary,

R.K.K.M.S. (INTUC),

PO Chandametta,

Distt. Chhindwara (MP)

... Workman

Versus

Chief General Manager,

WCL, Pench Area,

PO Parasia,

Distt. Chhindwara (M.P.)

... Management

#### AWARD

Passed on this 14th day of August, 2012

1. The Government of India, Ministry of Labour vide is Notification No. L-22012/421/99-IR (CM-II) dated 29-2/7-3-2000 has referred the following dispute for adjudication by this tribunal :-

"Whether the action of the management of WCL, Pench Area, PO Parasia, Distt. Chhindwara (MP) in not correcting the date of birth of Shri Babulal Khaira, Asstt. Foreman of Regional Workshop 1 WCL, Pench Area, PO Chandametta, Distt. Chhindwara (MP) is justified? If not to what relief the workman is entitled?"

2. The case of the union/workman in short is that the

workman was appointed on the post of apprentice on 1-8-1963 by the erstwhile company M/s. Shaw Wallace Company which was subsequently amalgamated in WCL. His age was 18 years at the time of entering into the service and the date of birth recorded in the School as per School leaving certificate was 1-7-1945. It is stated that after amalgamation in WCL, his date of birth was altered as 1-7-1943 without any reason and without any notice. M/s. Shaw Wallace Company destroyed the registers and did not handover the same to WCL. It is stated that 5-2-1981 an Instruction Circular No. 37 was issued and a notice was pasted on the notice board on 12-9-81 inviting objection if any regarding dispute of date of birth. The workman submitted representation dated 20-9-81 claiming his date of birth as 1-7-1945. It is stated that after seeking permission, he passed the Higher Secondary School Certificate Examination in 1986 and the Board issued the certificate showing his date of birth as 1-7-1945. Thereafter another Instruction Circular No. 76 was issued and was circulated on 25-4-88 for dealing the dispute of date of birth. It is stated that the management prepared the service record of the employee which was sent to the workman also. The workman raised objection that his date of birth is 1-7-1945 instead of 1-7-1943 but the management did not review his date of birth. Thereafter the dispute of date of birth was raised by the Union on 13-7-1998 but the management did not correct the date of birth. The Industrial dispute was then raised by the Union before the Asstt. Labour Commissioner, Chhindwara and hence the reference is made to the Tribunal. It is submitted that the reference be answered in favour of the Union/workman.

3. The management appeared and filed Written Statement. The case of the management, inter alia, is that admittedly the workman Shri Babulal Khaira was appointed by erstwhile M/s. Shaw Wallace Company on 1-8-1963 which was subsequently amalgamated in WCL. As per service record available to the management such as Form B (old and new), his date of birth is recorded as 1-7-1943. It is stated that after Instruction No. 37, a notice was displayed in 1982 showing his date of birth but the workman never raised any dispute with regard to his date of birth. Again after Instruction No. 76, the service excerpts were circulated in 1987 but he did not raise any dispute of his age. It is stated that he had passed Class VIIth and subsequently matriculation but the workman did not produce any certificate at the time of initial appointment. He had raised industrial dispute after 35 years in the year 1998. It is submitted that the workman is not entitled to any relief.

4. On the basis of the pleadings of the parties, the following issues are framed for adjudication -

- I. Whether the action of the management in not correcting the date of birth of Shri Babulal Khaira is justified?

II. To what relief the workman is entitled?

#### 5. Issue No I

The workman Shri Babulal is examined in the case. He has supported his case in his evidence. He has stated that he was initially appointed on 1-8-1963 in the erstwhile M/s. Shawallance company and he was 18 years old which comes to 1-7-1945. He has stated that he had passed High School Examination from Private Category in 1986. He has further stated that in 1981 the notice was displayed showing his date of birth and he raised dispute of his age on 20-9-81 and gave his certificate of Class VIIth. Again in view of Circular No. 76, the service record of the workman was prepared in 1987 and his signature was obtained. He raised objection of his age at that time but it was not decided. He has stated that then the Union gave a letter to the management on 13-7-98 for correction of his age and when the age was not corrected by the management, the Industrial Dispute was raised. His evidence clearly shows that the management invited objection of dispute of age if any and when the dispute was raised at the right time, the management did not take any decision in view of the circulars. The workman has not filed any original document in the case nor the photocopies of the documents are proved by the Union/workman in accordance with law. The genuineness of the photocopies of the documents cannot be presumed. Thus these documents are not reliable.

6. On the other hand the management has also adduced oral and documentary evidence in the case. The management witness Shri H.K. Singh is Dy. Chief Personnel Manager in WCL, Pench Area. He has come to support the case of the management. He has admitted that the workman Shri Babulal Khaire was initially appointed on 1-8-1963 in erstwhile company M/s. Shawallance. The said company was amalgamated in WCL, Pench Area. As per records available his date of birth was recorded as 1-7-1943. This itself shows that all records of the entire period of the service of the workman was not available, specially the period of his initial appointment in M/s. Shawallance. He has referred Form, 'B' prepared at different times in the WCL but none of the original documents are filed by the management to substantiate the evidence of the management. He has stated that service excerpts were circulated to each and every employee. He has stated that the service excerpt of Babulal was given to him and he did not raise any objection. The management has filed the photocopy of the Service Excerpt of Babulal. The original has not been filed nor it is proved. However the photocopy shows that Babulal had raised objection of his age in the year 1987 that his date of birth is 1-7-1945. This shows that the management has intentionally not filed the original documents and has not proved the documents in the case so that it will be clear that the workman had raised objection of his age in the year 1987 when it was asked by

the management. There is nothing to show that the management has ever reviewed the age of the workman inspite of raising dispute. The management has also not proved the photocopies of the documents filed in the case in accordance with law. This is clear that the action of the management is not justified in not correcting the date of birth of the workman without reviewing in accordance with the circulars issued by the management. This issue is decided in favour of the union/workman and against the management.

#### 7. Issue No. II

Considering the discussion made above, it is clear that the workman had raised age dispute when it was asked by the management in the year 1987 but the management had not reviewed in accordance with the circulars. The management is directed to review the age of the workman Shri Babulal Khaire after giving him full opportunity to prove his case within two months from the receipt/production of the copy of award. In case it is found that his date of birth is 1-7-1945 then to pay him all monetary benefits till the date of retirement as in any case the workman has attained the age of superannuation. If the management fails to determine the age within the prescribed period, then the management is directed to pay all monetary benefit to the workman considering his date of birth as 1-7-1945. Accordingly the reference is answered.

8. In the result, the award is passed without any order to costs.

MOHD. SHAKIR HASAN, Presiding Officer

नई दिल्ली, 10 सितम्बर, 2012

का. आ.3070.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस.ई.सी.एल. के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 38/99 को प्रकाशित करती है, जो केन्द्रीय सरकार को 10-09-2012 को प्राप्त हुआ था।

[सं. एल-22012/43/1998-आई आर (सी-II)]

बी. एम. पटनायक, अनुभाग अधिकारी

New Delhi, the 10th September, 2012

S.O. 3070.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 38/99) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the annexure in the Industrial Dispute

between the employers in relation to the management of SECL and their workman, which was received by the Central Government on 10-09-2012.

[No. L-22012/43/1998-IR (C-II)]

B. M. PATNAIK, Section Officer

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

No. CGIT/LC/R/38/99

PRESIDING OFFICER: SHRI MOHD. SHAKIR  
HASAN

The General Secretary,  
Janta Mazdoor Sangh (HMS),  
Branch Sohagpur Area,  
Qtr. No. A/17, Railway Colony,  
PO Dhanpur,  
Shahdol (MP)

...Workman

**Versus**

General Manager,  
Sohagpur Area of SECL,  
PO Dhanpuri,  
Distt. Shahdol (MP)

...Management

#### AWARD

Passed on this 8th day of August 2012

1. The Government of India, Ministry of Labour vide its Notification No. L-22012/43/98-IR (CM-II) dated 23-12-1998 has referred the following dispute for adjudication by this tribunal :—

“Whether the action of the management of Sharda Open Caste Mine of Sohagpur Area of SECL in not promoting Shri B.N. Tiwari, Mining Sirdar to higher grade as per the Cadre Scheme is legal and justified? If not to what relief the workman is entitled?”

2. The case of the union/workman in short is that the workman Shri B.N. Tiwari was working on the post of Mining Sardar Grade-C since 7-12-1987 continuously. It is stated that as per 1.1. No. 45 dated 28-6-85 the promotion on the post of Production-cum-Safety Asstt. Grade B is to be done in Group level whereas the management did promotion on the basis of Area level and he was as such not promoted on the said post. It is stated that vide letter No. 226 dated 15-2-96 the promotion was to be done by Departmental Promotion Committee (in short DPC) and he was asked to submit all documents but he was not called to appear in the DPC. It is stated that he was never been communicated any adverse remark. It is submitted that the

management be directed to promote him on the post of Production-Cum-Safety Asstt. Grade B from January, 1995 and to pay the salary accordingly.

3. The management appeared and filed Written Statement in the reference case. The case of the management, inter alia, is that admittedly the workman was working as a Mining Sardar Grade-C since 7-12-1987. It is stated that for upgradation to the post of Production-cum-Safety Assistant there are certain conditions to be complied with which are as follows—(a) seven years experience in Mining Sardar T&S Grade C (b) Availability of vacant post and (c) as per staffing pattern Production-cum-Safety Assistant which should not be more than 15% of the Mining Sardar Grade-C. It is stated that there is no rule for promotion on the said post on Group level. It is further stated that the workman was very junior in the list of Mining Sardar and as such he was not called by the DPC. It is submitted that the workman is not entitled to any relief.

4. On the pleadings of both the parties, the following issues are framed for adjudication—

I. Whether the action of the management in not promoting the workman to higher grade as per the cadre scheme is legal and justified?

II. To what relief the workman is entitled?

#### 5. Issue No. I

The union/workman has not adduced any evidence inspite of sufficient time for about five years granted to him. Lastly his right to adduce evidence in the case was closed on 13-8-2010.

6. The management has filed evidence of one witness and has also filed documentary evidence. Now let us examine the evidence adduced by the management. The management witness Shri Dharmrajan Panicker is working as Asstt. Manager (Personnel) at Sharda Open Caste Mine. He has stated that the workman is most junior in Mining Sardar category and his position is at serial No. 66. The promotion in Production-cum-Safety Assistant is based on the conditions that the employee has seven year experience in Mining Sardar T&S Grade-C, availability of vacant post and as per staffing pattern which should not be more than 15% of the Mining Sardar Grade “C”. He has stated that the DPC recommended the names on 19-8-1996 and 3-6-1997 of Mining Sardars accordingly. His evidence clearly shows that he was junior in seniority list as such as per availability of vacant post, his name was not recommended. He has further stated that on 29-9-2000 DPC was again held and the name of the workman was recommended. He was accordingly promoted on 17-11-2000 on the said post. His evidence is un rebutted. There is no reason to disbelieve his evidence.

7. The management has also filed documents in the case.

Annexure M/2 is the seniority list. It is filed to show that the name of the workman stands at Serial No. 66 in the cadre of Mining Sardar. This clearly shows that he was very junior from those who were earlier promoted in Grade B. Moreover this is not a case of supersession from juniors. Annexure M/7 is the recommendation dated 29-9-2000 of the DPC which shows that his name was recommended for promotion as overman Grade-B. Annexure M/8 is the office order dated 14/17-11-2000 whereby the workman is promoted as overman Grade-B. Thus it is clear from the evidence that as per seniority and availability of post, the workman was promoted. Thus this issue is decided against the workman and in favour of the management.

#### 8. Issue no. II

It is evident on the basis of the above discussion that the workman is not entitled to any relief and the management is legal and justified in not promoting the workman before 14/17-11-2000. The reference is accordingly answered.

9. In the result, the award is passed without any order to costs.

MOHD. SHAKIR HASAN, Presiding Officer

नई दिल्ली, 11 सितम्बर, 2012

का.आ.3071.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण/श्रम न्यायालय, सांगली के पंचाट (संदर्भ संख्या 22/1999) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-09-2012 को प्राप्त हुआ था।

[सं. एल-12012/167/1999-आई.आर.(बी-1)]

रमेश सिंह, डेस्क अधिकारी

New Delhi, the 11th September, 2012

S.O. 3071.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 22/1999) of the Indus. Tribunal-cum-Labour Court, Sangli as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen, received by the Central Government on 11-09-2012

[No. L-12012/167/1999-IR(B-I)]

RAMESH SINGH, Desk Officer

3628 47/13-10

#### ANNEXURE

#### BEFORE THE PRESIDING OFFICER, LABOUR COURT AT SANGLI.

(Presided over by Shri S.R. Navandar)

Ref. (I.D.A.) No. 22/1999

Exh. No. ...

#### Adjudication Between

Regional Manager  
State Bank of India,  
Region No. 1 Regional Office,  
'Gulmohar' 2420 East Street,  
Pune-1.

... 1st Party.

And

Shri Raosaheb Vaman Kamble,  
R/o. Arag, Tal-Miraj,  
Distt. - Sangli.

... 2nd Party.

#### Claim :—

Reinstatement with continuity of service and full back wages of 2nd Party.

Shri B.S. Chavan, Advocate for 1st Party.

Shri K.D. Shinde, Advocate for 2nd Party

#### AWARD

(Delivered on 07th day of August, 2012)

This is a reference made under Section-10 of the Industrial Disputes Act. (hereinafter referred to as the "Act").

#### (2) Certain facts of the case are as follows:—

2nd party workman Raosaheb Vaman Kamble was serving as a "Sweeper" with the 1st party Bank since 01-01-1987. Initially he rendered his services at Arag Branch and then at Miraj Branch of district Sangli. His services were terminated on 30-03-1995.

#### (3) Brief facts of the case of 2nd party workman are as follows :—

The 2nd party workman had enrolled himself with the Employment Exchange Office from where his name was recommended to the 1st party. Accordingly, he was called for interview and then by the recruitment process he was appointed to the post of sweeper by the 1st party Bank on 01-01-1987. He was regular employee of the Bank and was continuously in service till 30-03-1995. His name was shown in the seniority list of temporary employees which was named as "Waiting List" by the Management. From May, 1990 to the date of termination the 2nd party workman was serving at Wanless Hospital, Miraj as per the order of the

Management. It was assured by the Management that he would be absorbed in regular service as per availability of posts. However, the 2nd party workman has not been absorbed purposely. Some juniors to the 2nd party workman were absorbed by the Management thereby violating the rules and by laws. As such the 1st party Bank has illegally terminated his services.

(4) The 1st party Bank has not complied the mandatory requirements provided under Section-25 (g) of the Act and for that reason also the termination is illegal. His services were terminated on the basis of an agreement which had taken place between Union and the Management. Said agreement is not binding upon the 2nd party workman as he was not a member of the Union and had not consented the agreement. On this ground the 2nd party workman has alleged that the 1st party Bank is thus indulged in unfair labour practice and illegally terminated him. Therefore, he has prayed for reinstatement in service with full back wages.

(5) **The 1st party has resisted the claim by filing its Written Statement at Exh. C-4.** It has specifically denied that the 2nd party workman is in continuous service of the Bank and further that he had completed 240 days service in any year preceding to the 30-03-1995. It is contended that the 2nd party workman was engaged purely on daily wages and temporary basis and has never completed the desired period of service to be called as regular employee of the Bank. It has further denied that any seniority list of the temporary employees were prepared. According to the Bank it was a waiting list of the temporary employees which was subject to the settlement arrived at between recognized Union and the Bank.

(6) It has further contended that the recognized Union of the 1st party Bank, after deliberations and discussion, had arrived at a settlement on 17-11-1987 which was modified, rectified and clarified by the subsequent settlements dt. 16-07-1988, 27-10-1988, 01-01-1991 and 13-07-1996. As per the said settlements the Bank had agreed to absorb temporary employees in subordinate cadre on permanent basis in case of vacancies. It was further agreed that said absorption would be done up to 31-03-1997 and thereafter the remaining waiting list of temporary employees would stand lapsed. According to the Bank, as per the settlements certain temporary employees from the waiting list were absorbed but the list did not reach the 2nd party workman till due date and hence the list was lapsed. It is specifically contended that the settlement with the recognized Union was and is binding on the 2nd party workman also being it was the settlement with the recognized Union who represented all the workers of the 1st party, as per Section-2 (P) and 18 (i) of the Act.

(7) It is further contended that no junior employee to the 2nd party workman, from the waiting list was absorbed

in regular cadre and there is no breach of any of the statutory provision. It has further contended that this court has no jurisdiction to grant permanency in the employment and hence the grievance of the 2nd party workman cannot be adjudicated before this court. It is further contended that the 2nd party workman has appeared before the court nearly after four year of his termination. He has not explained as to why such a long delay has been caused in lodging his grievance. Thus, the claim suffers from inordinate delay and laches, and for that reason also it is not maintainable.

8. From the pleadings of the parties my Learned Predecessor has framed following issues at Exh. O-3. I record my findings them for the reasons to follow :

ISSUES	FINDINGS
(1) Whether the action of 1st Party in terminating the services of the 2nd party is legal and justified?	In the affirmative.
(2) If not, to what relief 2nd party is entitled to?	In the negative.
(3) What order?	Reference is dismissed as per final order.

### REASONS

9. To prove the claim workman Raosaheb has examined himself on oath. He has filed on record documents showing his appointment to the temporary post with list Exh. U-16.

10. The 1st Party Bank has led no oral evidence. It has filed on record the settlement arrived at between the recognized Union and the Management with list Exh. C-9.

11. Heard Learned Advocate Mr. K. D. Shinde, for the 2nd party and Learned Advocate Mr. B.S. Chavan, for the 1st party Bank.

#### 12. As to issue No. 1:

Although initially the 2nd party workman had claimed that he was in regular service of the Bank and that he had completed 240 days service in a year, during trial and at the time of arguments it has been fairly conceded that he was not a regular employee of the Bank. The documents produced on record by the workman itself show that he had not completed 240 days service in any year during the period of 01-01-1987 to 30-03-1995. It is also not disputed that the Bank had selected the 2nd party workman for the services of sweeper, kept him on waiting list and his absorption was depending upon vacancies as regulated by the settlement between Union and the Bank.

13. The certificates issued by the 1st party Bank (Exh. U-17 to 19) in favour of the workman denotes that his services were availed by the Bank as and when necessary and payment of wages was made as per the work done by the workman on the particular days. It is specifically mentioned in every letter that his services were of temporary nature. The bank has filed on record settlements No. 1 to 5 taken place between All India State Bank of India Staff Federation and the 1st party which are clear to the effect that the employees on daily wages and temporary basis be absorbed as per the waiting list till 31/3/1997. It was also agreed to prepare panels of temporary employees and accordingly the waiting list were prepared. Certain employees were absorbed in service as per the vacancies and the remaining list of employees was lapsed. As per the settlements noted above it is clear that the temporary employees who could not be absorbed in regular service were not entitled to be continued even on temporary basis.

14. Learned Advocate Mr. K.D. Shinde has argued that the workman was not a member of the Union who entered into the above mentioned settlement and therefore the terms of settlement cannot be made applicable to him. It is further argued that a Union has to see welfare of workman and if the agreement is not in the welfare of a workman, it cannot be said to be valid agreement or settlement.

15. It is not disputed that All India State Bank of India Staff Federation was a Union registered under Trade unions Act and it was representing the workmen of the Bank. There was no other recognized Unions of the Bank. Section-2(p) of the Act has defined what is settlement. The definition is quoted hereinafter for proper appraisal.

*[sec. 2(p)] Settlement means a settlement arrived at in the course of conciliation proceeding and includes a written agreement between the employer and workmen arrived at otherwise than in the course of conciliation proceeding where such agreement has been signed by the parties thereto in such manner as may be prescribed, and a copy thereof has been sent to an officer authorized in this behalf by the appropriate Government and the conciliation officer.*

16. The settlement arrived at between the Unions and the Bank has been titled to be under Section-2 (p) of the Act. It mean to say that it is a settlement between all the employees of the Bank and the Management. A recognized Unions is empowered enter into an agreement with the Management and can arrive at a settlements which has binding effect on all the workers, may they be members of the said Union or not. Section-18 (i) of the Act is clear on that point. It is proper to reproduce the provision at this place.

*[sec.18(i)] A settlement arrived at by agreement between the employer and workman otherwise than in the course of conciliation proceeding binding on the parties to the agreement.*

*Provided that where there is a recognized Union for any undertaking under any law for the time being in force than such agreement (not being an agreement in respect of dismissal, discharge removal, retrenchment, termination of service or suspension of an employee) shall be arrived at between the employer and the recognized Union only; and such agreement shall be binding on all persons referred to in Clause-(c) and Clause-(d) of sub-Section-(3) of this Section.*

17. On cumulative reading of Section-18(i) and Section-2 (p) of the Act it is clear that an agreement taken place or settlement arrived at between a recognized Union and the Management has binding effect on all the workers. Only because an employee or worker is not member of that Union, he cannot claim exemption by saying that it is not applicable to him. In taking this view I am fortified by the judgment of Hon'ble Apex Court in the case of *Ram Pukar Singh & Other V/s. Heavy Engineering Corporation & Others*, reported in A.I.R. 1995, S.C. Page No. 251. On the similar facts Hon'ble Apex Court has observed as follows:

*"Admittedly, there was only one Union representing all workers during all the relevant period. The settlement dated 13th September, 1990 was admittedly under Section-12(3) read with Section-18 and other provisions of the Industrial Disputes Act. The settlement was, therefore, binding on all the workmen whether they were members of the Union or not".*

18. From the above observation it is clear that the settlement arrived at between the recognized Union and the Management was and is binding upon the 2nd party workman. As per the said settlement the Bank has absorbed candidates on waiting list against vacancies. The list could not reach up to the 2nd party workman and hence he could not be absorbed. In the result it has been lapsed. When the policy has been fixed and agreed upon by the workers, the employer cannot be compelled to continue the employment of the 2nd party, even in the nature of a temporary employee. Admittedly, the 2nd party workman was not appointed in accordance with the rules but was engaged on the basis of need of the work. He was nonetheless the worker on daily wages. Hence, his disengagement from service cannot be constructed to be a retrenchment under the Act. Hon'ble Apex Court in the case of *Himanshu Vidhyarthi V/s. State of Bihar*, reported in 1997, S.C. Page No. 3657, similar circumstance has observed that the concept of retrenchment cannot be stretched to such an extent to cover the temporary or daily wages employees.

19. The above observations leads me to conclude that the applicant is not entitled to be reinstated as his disengagement from service does not amount to retrenchment, nor it is illegal. The 1st party Bank, in the



light of settlements arrived at with the Unions, cannot be compelled to provide employment to the 2nd party even of temporary nature. There was absolutely no evidence of any illegality committed by the 1st party Bank. It has acted upon the terms of settlements. It is correct that the 2nd party workman was serving for sufficiently long period with the 1st party Bank however he cannot be assisted by law in the given circumstances. Hence, I find that the termination of the 2nd party workman was legal and justified. Accordingly, I answer issue no. 1 in the affirmative.

#### 20. As to issue No. 2 :—

As the action of the terminating services of the 2nd party workman is found to be legal and justifiable, the 2nd party workman cannot be given any relief. It is therefore I answer issue No. 2 in the negative and proceed to pass the following order.

#### ORDER

1. The reference is answered in negative.
2. Claim of the workman stands disposed.

Sangli.

S. R. NAVANDAR, Presiding Officer

Dated : 07-08-2012.

नई दिल्ली, 11 सितम्बर, 2012

का.आ.3072.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सांगली बैंक लि. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, सांगली के पंचाट (संदर्भ संख्या 1/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-09-2012 को प्राप्त हुआ था।

[सं. एल-12012/468/99-आई.आर.(बी-1)]

रमेश सिंह, डेस्क अधिकारी

New Delhi, the 11th September, 2012

S.O. 3072.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 1/2000) of the Industrial Tribunal-cum-Labour Court, Sangli as shown in the Annexure, in the industrial dispute between the management of Sangli Bank Limited and their workmen, received by the Central Government on 11-09-2012.

[No. L-12012/468/1999-IR(B-1)]

RAMESH SINGH, Desk Officer

#### ANNEXURE

#### BEFORE THE PRESIDING OFFICER, LABOUR COURT, AT SANGLI

(Presided over by Shri S.R. Navandar)

Ref. (I.D.A.) No. 1/2000

Exh. No.

Adjudication Between

Manager,

Sangli Bank Limited.

... 1st Party.

And

Shri. Yasin Dastgir Shaikh.

... 2nd Party

#### Claim :-

Reinstatement with continuity of service and full back wages of 2nd Party.

Shri. U.J. Chipre, Advocate for 1st party.

Shri Gramopadhye, Advocate for 2nd Party.

#### AWARD

(Delivered on 1st day of August, 2012)

This is a reference made under Section-10 of the Industrial Disputes Act. (hereinafter referred to as the "Act".)

(2) Brief facts of the case are as follows:-

2nd party workman Yasin Shaikh was serving as a "Sweeper" with the 1st party since December-1995. He remained absent and hence on 23-04-1996 the 1st party has terminated his services informing him that due to abandonment of service he has been discharged. Challenging the termination of service the 2nd party workman had approached the Assistant Labour Commissioner. Conciliation proceeding was held but did not succeed. It is therefore this reference.

(3) The 2nd party workman has filed his Statement of claim at Exh. U-4 contending that he was suffering from illness and hence could not attend the duty from 08 December to 31-12-1995. According to him he thereafter visited the Bank to resume duty but was not allowed by the Branch Manager. It is alleged that the Bank Officers purposely sent him back and finally claiming absenteeism terminated his services. He has therefore claimed reinstated with back wages.

(4) The 1st party Bank has filed its Written Statement at Exh. C-5. It has specifically denied that the 2nd party workman had approached the Bank to resume services after December-1995. According to the Bank the workman was continuously absent without showing any reason since 06-12-1995 till 22-04-1996. It is specifically contended that the Bank had issued a notice to the workman on 23-3-1996

thereby calling-upon him to resume the duty but he failed. In the result as per the rules the services of the workman stand terminated.

(5) From the pleadings of the parties my Learned Predecessor has framed following issues at Exh. O-3. I record my finding them for the reasons to follow:

ISSUES	FINDINGS
(1) Does the 2nd party prove that the action of the Management of Sangli Bank Limited, Sangli in terminating his services w.e.f. 22-4-1996 is illegal?	<i>In the negative.</i>
(2) Does the 1st party prove that the 2nd party remained absent unauthorizedly and thus abandoned the services?	<i>In the affirmative.</i>
(3) Whether the 2nd party is entitled to relief prayed for?	<i>In the negative.</i>
(4) What order?	<i>Reference is rejected as per final order.</i>

#### REASONS

(6) The 2nd party workman has filed on record his examination-in-chief on 28-7-2005 but thereafter remained continuously absent and hence his cross-examination cannot be recorded. The said affidavit of the workman has no evidentiary value and hence cannot be taken into account as an evidence.

(7) The respondent Bank has led no oral evidence. It has filed on record all the documents relating to the service of the workman, alongwith notices issued to him on different occasions.

#### (8) As to issues No. 1 to 3:

Admittedly 2nd party workman was continuously absent and did not attend the duty since 06-12-1995 till he was served with the notice dt. 23-3-1996. However, he did nothing.

(9) The record shows that even before year 1995 he was given warning and reprimanded for remaining absent and not doing his work punctually and honestly. It is clear that he was a chronic case of absenteeism and has lost his service due to his own negligence. The copies of the rules filed on record with Exh. C-11 show that the Bank has terminated his service following due process of law which calls for no interference. Hence, I answer issue No. 1 and 3 in the negative and issue No. 2 in the affirmative and proceed to pass the following order.

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#### ORDER

1. The reference in answered in negative.
2. Claim of the workman stands disposed.

S. R. NAVANDAR, Presiding Officer

नई दिल्ली, 12 सितम्बर, 2012

का.आ.3073.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बीसीसीएल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं. 2, धनबाद के पंचाट (आई डी संख्या 30/2008) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12-9-2012 को प्राप्त हुआ था।

[सं. एल-20012/30/2008-आई आर (सीएम-1)]

अजीत कुमार, अनुभाग अधिकारी

New Delhi, the 12th September, 2012

S.O. 3073.—In pursuance of Section 17 of the Industrial Act, 1947 (14 of 1947), the Central Government hereby published the Award Ref. 30/2008 of the Cent. Govt. Industrial Tribunal No. 2, Dhanbad as shown in the Annexure, in the Industrial Dispute between the management of M/s. BCCL and their workmen, received by the Central Government on 12-09-2012.

[No. L-20012/30/2008 -IR(CM-1)]

AJEET KUMAR, Section Officer

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (No. 2) AT DHANBAD

#### PRESENT

Shri Kisori Ram, Presiding Officer

In the matter of an Industrial Dispute under Section 10(1) (d) of the I.D. Act., 1947.

#### REFERENCE No. 30 of 2008.

**PARTIES :** Employer in relation to the management of Lodna Area of M/s BCCL and their workman.

#### APPEARANCES:

On behalf of the workman : None

On behalf of the management : Mr. U.N. Lal, Ld.  
Advocate;

State : Jharkhand Industry: Coal

Dated, Dhanbad, the 30th July, 2012.

### ORDER

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1) (d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal vide their Order No. L-20012/30/2008-IR(CM-I) dt. 28.04.2008.

### SCHEDULES

“Whether the action of the management Bagdidi Colliery of Lodna Area of M/s BCCL in dismissing sh. Manoj Kumar Singh, SDL, Cableman from the services of the company w.e.f. 22-4-2006 is legal and justified? If not, to what relief is the concerned workman entitled?”

2. None appeared for the Union/workmen Manoj Kumar Singh, SDL Cable man nor written statement filed on behalf of the workman despite four Regd. Notices dated 28-1-2011, 18-5-2011, 12-10-2011, 15-3-2012 and 18-4-2012 issued to the Union on its address noted in the Reference, non of which returned unserved Mr. U. N. Lal, the Ld. Advocate for the Management is present.

Perused the case record. It stands clear that the case has been all along pending since 25th March, 2011 for filing written statement on behalf of the workman in the case which is related to the dismissal of workman Manoj Kumar Singh w.e.f. 22-4-06 for which despite ample opportunity as well as aforesaid four Regd. notices, no written statement of the workman has been filed even today. Thus the very conduct of the sponsoring Union Bahujan Mazdoor Union as well as that of the workman shows their unwillingness to pursue the case. Hence, proceeding with the case for uncertainty is worthless and unnecessary. Hence, the case is closed and accordingly an order is passed as no longer existent of the Industrial Dispute.

KISHORI RAM, Presiding Officer

नई दिल्ली, 12 सितम्बर, 2012

का.आ.3074.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी सी सी एल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं. 2, धनबाद के पंचाट (आई डी संख्या 299/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को जो केन्द्रीय सरकार की 12-09-2012 को प्राप्त हुआ था।

[सं. एल-20012/304/2001-आई आर (सी-1)]

अजीत कुमार, अनुभाग अधिकारी

New Delhi, the 12th September, 2012

**S.O. 3074.**—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 299/2001) of the Central Government Industrial Tribunal-cum-Labour Court No II, Dhanbad as shown in the Annexure in the Industrial Dispute between the employers in relation on the management of M/s. BCCL and their workman, which was received by the Central Government on 12.09.2012.

[No. L-20012/304/2001-IR (C-I)]

AJEET KUMAR, Section Officer

### ANNEXURE

### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2)

### PRESENT

Shri Kishori Ram, Presiding Officer.

In the matter of an Industrial Dispute under Section 10(1) (d) of the I.D. Act., 1947.

### REFERENCE No. 299 of 2001.

**PARTIES :** Employer in relation to the management of Patherdih Colliery of E.J. Area of M/s BCCL and their workman.

### APPEARANCES :

On behalf of the workman: None

On behalf of the management: None

State: Jharkhand Industry: Coal

Dated, Dhanbad, the 2nd August, 2012.

### ORDER

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1) (d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal vide their Order No. L-20012/304/2001-IR(C-I) dated 23-11-2001.

### SCHEDULE

“Whether the demand of the Colliery Karmachary Sangh from the management of BCCL Patherdih Colliery that Shri Lal Babu Singh, Jai Prakash Paswan and Rampada Orang may be regularised as Trammer w.e.f. 15-7-99 is justified and proper? If so, to what relief are the workman entitled?”

2. None appeared for the Union for the workman Lal Babu Singh, Jai Prakash Paswan and Rampada Orang

nor any witness for the workmen produced. Likewise none appeared to Represent the management.

The perusal of the case record reveals the fact that the case has been closed earlier at the point of evidence on 29-07-2005 and then thereafter it proceeded for the evidence of the management from 06-01-2005 upto 23-04-2012 and thereafter twice it was given the chance of the workmen for evidence, even then the Union concerned failed to produce any evidence on behalf of the workman in this case which related to their regularisation as Trammer of late, Four Registered letters were issued to the both the parties for their proper representation and evidence as well, but none of them responded to it.

Proceeding with the case in such situation of uncertainty is useless and wastage of time and energy in vain. Hence the case is closed and accordingly it is passed on order of no Industrial dispute existent.

KISHORI RAM, Presiding Officer

नई दिल्ली, 12 सितम्बर, 2012

का.आ.3075.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई सी एल के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं. 2, धनबाद के पंचाट (आई डी संख्या 266/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12-09-2012 को प्राप्त हुआ था।

[सं. एल-20012/300/2001-आई आर (सी-1)]

अजीत कुमार, अनुभाग अधिकारी

New Delhi, the 12th September, 2012

S.O. 3075.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 266/2001) of the Central Government Industrial Tribunal-cum-Labour Court No. II, Dhanbad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. ECL and their workmen, which was received by the Central Government on 12-09-2012.

[No. L-20012/300/2001-IR(C-I)]

AJEET KUMAR, Section Officer

## ANNEXURE

### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL

(No. 2), Dhanbad

Present

SHRI KISHORI RAM, Presiding Officer

In the matter of an Industrial Dispute under Section 10(1)(d) of the I.D. Act., 1947

Reference No. 266 of 2001

**Parties :** Employer in relation to the management of Eastern Coalfields Ltd. Mugma Area, Mugma, Dhanbad and their workman.

**Appearances :**

On behalf of the workmen : None

On behalf of the management : Mr. B.N. Prasad, Ld. Advocate;

State : Jharkhand Industry : Coal

Dated, Dhanbad, the 16th August, 2012

### ORDER

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act., 1947 has referred the following dispute to this Tribunal vide their Order No. L-20012/30/2001 IR (C-I) dt. 27-9-2001

### SCHEDULE

“Whether the action of the management of M/s ECL in not promoting Sri Rabindra Prasad Clerk to a higher grade is fair and justified. If not, to what relief is the concerned workman entitled and from what date?”

2. None appeared for the Union nor workman Rabindra Prasad appeared nor any witness for the evidence of the workman produced despite several Regd. notices. Mr. B.N. Prasad, Ld. Advocate for the Management did not appear.

Perused the case record. I find that the case has been pending for the evidence of the workman since long, for which several Registered notices dt. 15-11-2010, 5-9-2011, 25-1-2012 and 16-7-12 have been issued to the Union concerned on its address noted in the Reference, but none of them returned unserved, meaning all the Registered notice having been served upon the Union concerned, even then a single witness produced for the evidence of the workman in this case which is related to an issue of promotion of the workman to higher grade. The conduct of the Union as well as the workman shows their disinterestendess is pursuing the case.

Under these circumstances, proceeding with the case for uncertainty is unwarranted, as the case is the oldest one of the year 2001; hence the case is closed; and accordingly an order of no dispute existent is passed.

KISHORI RAM, Presiding Officer

नई दिल्ली, 12 सितम्बर 2012

का.आ.3076.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बीसीसीएल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं. 2 धनबाद के पंचाट (आई डी संख्या 117/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12-9-2012 को प्राप्त हुआ था।

[सं. एल-20012/522/2000-आईआर (सी-1)]

अजीत कुमार, अनुभाग अधिकारी

New Delhi, the 12th September, 2012

S.O. 3076.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 117/2001) of the Central Government Industrial-cum-Labour Court Tribunal No. II, Dhanbad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. BCCL and their workmen, which was received by the Central Government on 12-09-2012.

[No. I-20012/522/2000-IR(C-I)]

AJEET KUMAR, Section Officer

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2), AT DHANBAD

Present : SHRI KISHORI RAM, Presiding Officer

In the matter of an Industrial Dispute under Section 10(1)(d) of the I.D. Act., 1947

Reference No. 117 of 2001

Parties : Employer in relation to the management of Golukdih Open Cast Project, Bastacolla Area of M/s. BCCL and their workman.

#### Appearances:

On behalf of the workmen :	Mr. N.G. Arun, Rep. of workman
On behalf of the management:	Mr. U.N. Lal, Ld. Advocate;

State: Jharkhand

Industry: Coal

Dated, Dhanbad, the 08th August, 2012.

#### ORDER

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act., 1947 has referred the following dispute to this Tribunal vide their Order No. I-20012/522/2000 IR (C-I) dated 29-3-2001.

#### SCHEDULE

“Whether the action of the management of M/s. BCCL in not regularising the service of workman Sri Ram Chandra Bhuia, General Mazdoor is Loading Clerk in Golukdih Open Cast Project under Bastacolla Area is justified, legal and proper? If not, to what relief is the workman entitled and from what date?”

2. None appeared for the Union concerned/workman Ram Chandra Bhuia nor MW produced on behalf of the Management, but Mr. U.N. Lal, Learned Advocate for the Management appeared and submits filing a petition along with an application dated 4-5-2012 and photo copies of two letters dated 24-1-2008 and 19-1-2009 of Dy. Chief Personnel Manager, Bastacolla Area that the workman has voluntarily intended to withdraw the case, because he has been regularised as the Clerk in the year 2009.

Perused the case record, I find that the present Reference relates to the claim of the workman the General Mazdoor, for his regularisation as Loading Clerk in Golukdih Open Cast Project under Bastacolla Area. Since the workman as per his petition has admitted to have got the post of clerk as his regularisation in the year 2009, no longer the Industrial Dispute exists; therefore, the case is closed and accordingly an Award of no dispute is passed.

KISHORI RAM, Presiding Officer

नई दिल्ली, 12 सितम्बर, 2012

का.आ.3077.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी सी सी एल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं. 2, धनबाद के पंचाट (आई डी संख्या 151/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12-09-2012 को प्राप्त हुआ था।

[सं. एल-20012/575/2000-आई आर (सी-1)]

अजीत कुमार, अनुभाग अधिकारी

New Delhi, the 12th September, 2012

S.O. 3077.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 151/2001) of the Central Government Industrial Tribunal-cum-Labour Court No. II,

Dhanbad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. BCCL and their workman, which was received by the Central Government on 12-09-2012.

[No. L-20012/575/2000-IR(C-I)]

AJEET KUMAR, Section Officer

### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (No. 2) AT DHANBAD

PRESENT. Shri Kishori Ram, Presiding Officer.

In the matter of an Industrial Dispute under Section 10(1) (d) of the I.D. Act., 1947.

#### REFERENCE No. 151 of 2001

**PARTIES :** Employer in relation to the Management of Sijua Area of M/s BCCL and their workman.

#### APPEARANCES :

On behalf of the workman : Mr. N.G. Arun, Rep. of workman.

On behalf of the Management : Mr. D.K. Verma, Ld. Advocate.

State : Jharkhand Industry : Coal

Dhanbad, Dated the 25th July, 2012

#### ORDER

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal *vide* their Order No. L-20012/575/2000-IR (C-I) dtd. 30-4-2001.

#### SCHEDULE

"Whether the demand of the RCMS from the Management of BCCL for placement of Shri Police Prasad Sahu in Grade 'D' w.e.f. 16-3-1988, in Grade 'C' w.e.f. 16-3-1991 and in Grade 'B' w.e.f. 16-3-1995 and consequential benefits is justified and proper? If so, to what relief is the concerned workman entitled?"

2. None appeared for the Union concerned/workman nor substitution petition or affidavit or any document of death of the workman despite ample opportunity, filed Mr. D.K. Verma, the Ld. Advocate for the Management is present.

Perused the case record. It is quite clear that the case

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has been pending for filing a substitution petition since 28-12-2010 but neither the Union Representative Mr. N.G. Arun, for the workman took any interest for filing the substitution petition, for which more than ample opportunity was given in the case of the workman Police Prasad Sahu related to the claim of the Union for his placement in specified Grades. Under this circumstances of uncertainty, I find the sponsoring union is not willing to pursue the case, which is of the year 2001. Hence, the case is closed and accordingly an order is passed as non existence of the Industrial Dispute.

KISHORI RAM, Presiding Officer

नई दिल्ली, 12 सितम्बर, 2012

का.आ.3078.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी सी सी एल के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 2, धनबाद के पंचाट (आई डी संख्या 65/1999) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12-09-2012 को प्राप्त हुआ था।

[सं. एल-20012/191/1998-आई आर (सी-1)]

अजीत कुमार, अनुभाग अधिकारी

New Delhi, the 12th September, 2012

**S.O. 3078.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 65/1999) of the Central Government Industrial Tribunal-cum-Labour Court, No. II, Dhanbad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. BCCL and their workman, which was received by the Central Government on 12-09-2012.

[No. L-20012/191/1998-IR(C-I)]

AJEET KUMAR, Section Officer

### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

PRESENT :

SHRI KISHORI RAM, Presiding Officer

In the matter of an Industrial Dispute under Section 10(1) (d) of the I.D. Act, 1947.

#### REFERENCE No. 65 of 1999

**PARTIES :** Employer in relation to the management of Barareek Coke Plant of M/s. B.C.C.L. and their workman.

**APPEARANCES:**

On behalf of the workman: Mr. S.C. Gaur, Ld.  
Advocate

On behalf of the Management: MR. S.N. Sinha, Ld.  
Advocate

State: Jharkhand Industry: Coal

Dhanbad, Dated the 25th July, 2012

**ORDER**

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal vide their Order No. L-20012/191/98-IR(C-I) dtd. 27-01-1999.

**SCHEDULE**

“Whether the action of the management of Bararee Coke Plant of M/s. BCCI. in not referring Sh. Sarju Bhuiya, M/Loader working as Benchman to Apex Medical Board after filling up the prescribed medical from AMB-6 is justified? If not, to what relief is the said workman entitled?”

2. The case of the sponsoring union for the workman is that workman Sarju Bhuiya was initially appointed as a Piece Rated Wagon Loader at Kenduadih Colliery of M/s. B.C.C.L. on 19-3-1972, while he was 26 years old as recorded in the FORM-B Register of the said colliery, a statutory record under the Mines Act, 1952. The Authority/Dealing Asstt. mentioned the date of birth of the workman as 02-02-1950 in C.M.P.F. Records. The workman being illiterate Tribunal could not know what his age was recorded in the records of Kenduadih Colliery. In the year 1987, the management all over Coal Industry issued SEVA ABHILEKH/SERVICE EXCERPTS, and for the first time, his age/date of birth was shown as 36 years as on 19-3-1972, to which the workman protested, then after correcting it as 26 years as on the said date, it was returned to the management by retaining a copy himself as per the system prevalent in the Management. As per the Joint Bipartite Committee for Coal Industry (JBCCI) first came vide clause 1-1-76, in case of variation of age on date of birth recorded in two or more statutory records such cases will be referred to Apex Medical Board of the Company, and the age so assessed shall be final and binding on both parties. The Management as per the policy decision of the JBCCI as on the demand of the workman got medical format AMB-6 filled by mentioning 19-3-1972 as appointment date, 26 year age in Form-B as on 03/72 Date of birth as per CMPF record as on 2-2-1950 as well as the due date of retirement of the workman as on 01-03-2006, and since the workman raised the dispute, it was never referred to Medical Board for assessment of age. But the workman was never referred to Medical Board in order to deprive him of his

remedy under clause 1.1.76 of the J.B.C.C.I. Apart from it, the management transferred the service of the workman from Kenduadih Colliery to Bararee Coke Plant in the year 1989 to deprive him and the Union of raising the matter of his wrong age as well as not sending him to the Apex Medical Board. At last, the failure in reconciliation in the I.D. raised by the workman before the A.L.C. (C), Dhanbad, due to adamant attitude of the management, resulted in the reference for adjudication. And the Management of Bararee Coke Plant wrongly superannuated the workman prematurely on and from 19-2-1996 in violation of the provision under clause 1-1-76 of the J.B.C.C.I. As such the action of the Management of BCCL is not at all justified, is quite illegal, arbitrary, malafide. So the workman is entitled to duty with full back wages etc. from the date of illegal superannuation to permission for his duty.

3. The workman in his rejoinder with specific denials has pleaded that the local Management of Bararee Coke Plant in utter violation of the said provision of the JBCCI did not refer the workman to Apex Medical Board of the Company after filling the AMB of Format about his age differently maintained in different records. The JBCCI formulated for the first time in 1988. The Management for the first time in 1988 gave him a chance and opportunity to correct his age, and under the circumstances, representing prior to 1988 was uncalled for. A number of cases all over the Coal were referred to the Medical Board as per the JBCCI terms, and ages of workers were corrected in their records.

4. Whereas the contra pleaded case of the Management with categorical denials, challenging its maintainability is that a Union of a workman for correction of his date of birth if made within a reasonable time from the date of his entry made in the Company's records is entertainable by the Management, but for any such claim made at the fag end of his retirement the Management owns every right to refuse a workman to the Apex Medical Board for assessment of his age. The workman was working at Bararee Coke Plant after his transfer from Kenduadih Colliery as per the Office Order dt. 7/8-4-1989, and his age was recorded as 36 years on 19-3-1972 as per the particulars of his employment sent by Kenduadih. Accordingly, the particulars of the workman were entered in the Company's document maintained at Bararee Coke Plant, so he was superannuated w.e.f. 19-3-1996 as his date of birth was 19-3-1936 according to the particulars sent by the Kenduadih Colliery. The workman came to Bararee Coke Plant in the year 1989. After his retirement, he raised the dispute on the allegation that his case was not referred by the Management of Bararee Coke Plant to the Apex Medical Board for assessment of his age. This workman had no occasion to point out any inconsistency in the Company's records concerning his appointment date and birth date so the present management had no reason to take up his case. The workman had no



reason to get his date of birth corrected during the entire period of his service from the date of his appointment 19th March, 1972 to 08th April, 1989 prior to his transfer and posting at Bararee. The sponsoring Union made out a false case.

5. The Management in its rejoinder has pleaded that the Management is required to superannuate a workman on the basis of age/date of birth recorded in the Form-B Register of the Company. The JBCCI Circular No. 76 is the precedural Law to be applied in the event the management takes decision to review the date of birth entered on the Company's record. The substantive law is Certified Standing Order of the Company, lays down the date of birth recorded in the Company's record is binding and conclusive in deciding the time of superannuation. No question of filling up the Medical format does arise, as the Management did not issue any order for sending the workman to Apex Medical Board for assessment of his age.

#### FINDING WITH REASONING

6. In this case, WWI Sarju Bhuiya, the workman himself for the Union, and MWI Sheo Shankar Yadav, the Personnel Clerk of the Management have been examined.

On the deep study of the materials/evidence both oral and documentary of both the parties, I find that WWI Sarju Bhuiya, the workman himself, as per this statement as also his written argument has claimed for his reference to Apex Medical Board, for which the Management in the year 1990 directed him to appear before the Medical Board, Kustore Area as per his Form A M B-6 and the partially filled up Form Apex Medical Board for Age assessment (Ext. W.1 and W. 1/1 respectively) on his request for rectification of this date of birth. But his Form AM B-6 bearing the alleged signature of Controlling Officer concerned stands dtd. 05-10-1993 which is contradictory, whereas Form "Apex Medical Board" for Age Assessment is partially filled up and admittedly his Identity Card No. 11126 bears his not date of birth (Ext. W. 2). Admittedly, the workman worked at Kenduadih Colliery upto 1988 since his appointment on 19-03-1972, during which on receipt of Service Excerpt and finding his date of birth (DOB) wrongly recorded, he has protested it, and requested the Management to rectify it, but after 1988, he was transferred to Bararee Coke Plant. He (workman) has also admitted to have neither signed nor put L.T.I. in the Form-B Register when filled up by the Management Official at the time of his joining, though his Identity Card (Ext. W. 2) was issued to him in the year 1974, yet he did not request the management to note his date of birth column his Identity Card blank, nor he raised any objection in writing to the Management about his wrongly recorded date of birth in the Service Excerpt at the time of his transfer to Bararee Coke Plant in 1989 about it, though admittedly he raised

the Industrial Dispute 1994. But the present Industrial Dispute is of the year 1999.

7. On the other hand, the statement of MW/1 Sheo Shanker Yadav, the Personnel Clerk for the Management is that according to the service particulars of the workman issued by the Management Kenduadih Colliary (Ext. M.1), and the photocopy of Register of Identity Card No. 11126 of the workman (Ext. M.2) under his signature, his date of birth was 19-03-1996 as on his appointment on 19-03-1972, so he duly retired on 19-03-1996 at his 60 years of age, for which he was given prior two notices dtd. 19-09-1995 and 19-02-1996 (Ext. M.3 and M. 4 respectively), to which he did not respond.

8. Taking into account all the pro and cons of the aforesaid discussed facts, I find that the workman's present claim is not based on substantial piece of evidence except on the formal filled up Form dtd. 05-10-1993 and Form dateless for assessment of his age (Ext. 1 & 1/1 respectively) though neither he did bring any piece of evidence as to what was his real age and its base at the time of his appointment, nor he objected to his allegedly wrongly recorded date of birth even at the fag end of his superannuation.

Under this circumstances, it is hereby held and ordered that the action of the Management of Bararee Coke Plant of M/s BCCL, if any, though does not arise, in not referring Sri Sarju Bhuiya, M/Loader working as Benchman to Apex Medical Board after filling up the prescribed medical form AMB-6 is quite justified. The workman is not at all entitled to any relief.

KISHORI RAM, Presiding Officer

नई दिल्ली, 12 सितम्बर, 2012

का.आ.3079.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स धर्मवीर माईन आनर लाईम स्टोन रामगंजमण्डी कोटा के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, कोटा के पंचाट (संदर्भ संख्या 18/2008), को प्रकाशित करती है जो केन्द्रीय सरकार को 9-7-2012 को प्राप्त हुआ था।

[सं. एल-29011/10/2008-आई आर (एम)]

जोहन तोपनो, अवर सचिव

New Delhi, the 12th September, 2012

S.O. 3079.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947) the Central Government hereby publishes the award (Ref. No 18/2008) of the Central Government Industrial Tribunal/Labour Court KOTA now as shown in the Annexure in the Industrial dispute between the employers in relation to the management of M/s. Dharamvir

Mine Owner, Lime stone, Ramganjmandi (Kota) and their workman, which was received by the Central Government on 9-7-2012

[No. L-29011/10/2008-IR (M)]

JOHAN TOPNO, Under Secy.

### अनुबंध

न्यायाधीश, औद्योगिक न्यायाधिकरण, कोटा/केन्द्रीय/कोटा/राज०/  
पीठासीन अधिकारी - श्री प्रकाश चन्द्र पगारीया, आर.एच.जे.एस.

निदेश प्रकरण क्रमांक: ओ.न्या./केन्द्रीय/-18/2008

दिनांक स्थापित: 21/7/08

प्रसंग : भारत सरकार, श्रम मंत्रालय, नई दिल्ली के आदेश सं  
एल-29011/10/2008(आईआर)(एम) दि० 15/7/08

निर्देश/विवाद अंतर्गत धारा 10(1) (घ)

औद्योगिक विवाद अधिनियम, 1947

मध्य

घनश्याम पुत्र देवीलाल

द्वारा जनरल सेक्रेटरी, पत्थर खान कामगार यूनियन  
बंगाली कालोनी, छावनी, कोटा।

एवं

धर्मवीर पुत्र श्री रामदत्तमल,

माईन ऑनर, लाईम स्टोन रामभेज मण्डी, कोटा/राज०/

उपस्थित :

प्रार्थी श्रमिक की ओर से प्रतिनिधि:- श्री पुरुषोत्तम दाधीच

अप्रार्थी नियोजक की ओर से :- कोई उपस्थित नहीं

अधिनिर्णय दिनांक : 7/5/2012

अधिनिर्णय :

भारत सरकार, श्रम मंत्रालय, नई दिल्ली के उक्त प्रासांगिक आदेश दि. 15/7/08 के जरिये निम्न निर्देश/विवाद, औद्योगिक विवाद अधिनियम, 1947 (जिसे तदुपरान्त "अधिनियम" से सम्बोधित किया जावेगा) की धारा 10 (1)(घ) के अन्तर्गत इस न्यायाधिकरण को अधिनिर्णयार्थ सम्प्रेषित किया गया है :-

"Whether the action of the management of Lime Stone Mine Owner, Shri Dharamvir, Manager in denial of the claim of their workman Shri Ghanshyam S/o Shri Devi Lal Jat raised through Pattar Khadan Kamgar Union relating to wages for the period from 1/6/2000 to 23/8/2001 and bonus and overtime allowance from the period from 1/7/1980 to 23/8/2001 is just and legal? If not, to what relief the workman is entitled?"

2. निर्देश/विवाद न्यायाधिकरण में प्राप्त होने पर पंजीबद्ध उपरान्त

पक्षकारों को सूचना/नोटिस भिजवाये गये।

3. प्रार्थी कर्मकार घनश्याम की ओर से क्लेम स्टेटेमेंट पेश किया गया जिसमें यह वर्णित किया गया कि प्रार्थी को अप्रार्थी नियोजक धर्मवीर द्वारा दि. 1/7/80 से मुंशी के पद पर पीपाखेड़ी माईन्स पर नियोजित किया गया था एवं बाद में उसे नियोजक ने 1/7/86 को लखारिया फ्लोरिंग स्टोन पिट नं० 6 पर स्थानान्तरित कर दिया एवं इसके बाद में 1/7/90 से लाईम स्टोन माईन्स, चेचट में मुंशी का कार्य करने हेतु स्थानान्तरित कर दिया। बाद में नियोजक ने प्रार्थी को दि० 24/8/98 से माईनिंग मेट के पद पर पदोन्नत कर दिया एवं बाद में दि० 23/8/01 से बिना कोई कारण, सूचना एवं नोटिस के प्रार्थी को हटा दिया गया। कर्मकार ने बोनस के भुगतान की मांग की थी। इस प्रकार प्रार्थी कर्मकार ने दि० 1/7/80 से 22/8/01 तक लगातार 240 दिन से ज्यादा काम किया है। कर्मकार को हटाने का कृत्य छंटनी की परिभाषा में आता है। हटाने से पहले धारा 25-एफ, वी एच के प्रावधानों की पालना नहीं की गयी। उसे हटाने से पहले एक माह का नोटिस अथवा नोटिस वेतन व छंटनी का मुआवजा नहीं दिया गया व उसके स्थान पर नये श्रमिक को नियोजित कर उसे नियोजन का अवसर नहीं दिया। अतः प्रार्थी ने अपने क्लेम स्टेटेमेंट के माध्यम से समस्त पिछले वेतन व अन्य परिलाभों सहित सेवायें पुनर्स्थापित किये जाने की मांग की।

4. केन्द्रीय सरकार से रेफ्रेन्स प्राप्त होने पर नियोजक को नोटिस भेजा गया एवं उसके नोटिस पर यह रिपोर्ट आयी की धर्मवीर की दि. 1-11-07 को मृत्यु हो चुकी है एवं साथ में उसके मृत्यु प्रमाणपत्र की फोटोप्रति भी प्राप्त हुई जिसमें नियोजक धर्मवीर की दि. 1-11-07 को मृत्यु होना प्रकट होता है।

5. जहां एक ओर नियोजक की मृत्यु 1-11-07 को हो चुकी है एवं केन्द्रीय सरकार द्वारा अपने आदेश दि. 15-7-2008 के द्वारा यह रेफ्रेन्स इस न्यायाधिकरण को किया गया है। अर्थात् रेफ्रेन्स होने से काफी समय पहले ही नियोजक की मृत्यु हो चुकी थी एवं मृत व्यक्ति के खिलाफ रेफ्रेन्स कर दिया गया था एवं कानूनन किसी भी मृत व्यक्ति के खिलाफ कोई रेफ्रेन्स चल नहीं सकता।

6. किसी भी वाद या कार्यवाही के संस्थित से लेकर के लम्बित रखने के दौरान यदि किसी पक्षकार की मृत्यु हो जाती है तो उसके कायममुकाम बनाये जाने का प्रावधान है परन्तु यदि किसी वाद या कार्यवाही के स्थापना के पहले ही किसी पक्षकार की मृत्यु हो जाती है तो ऐसे मामले में कायममुकाम बनाये जाने का प्रावधान नहीं है क्योंकि कार्यवाही संस्थित होने से पहले ही पक्षकार की मृत्यु हो चुकी थी, इसी कारण से प्रार्थी कर्मकार की ओर से नियोजक के कायममुकाम बनाये जाने बाबत प्रार्थना-पत्र आज अलग आदेश के द्वारा खारिज कर दिया गया।

7. चूंकि हस्तगत रेफ्रेन्स एक ऐसे व्यक्ति के विरुद्ध हुआ जो रेफ्रेन्स की तिथि को जिन्दा ही नहीं था, उसकी काफी समय पहले ही मृत्यु हो चुकी थी, अतः ऐसा रेफ्रेन्स प्रारम्भ से ही शुन्य है एवं ऐसा रेफ्रेन्स कानूनन चल नहीं सकता। अतः ऐसे रेफ्रेन्स में कोई अनुतोष भी दिया जाना सम्भव नहीं है।

परिणामस्वरूप भारत सरकार, श्रम मंत्रालय, नई दिल्ली द्वारा अपने प्रासांगिक आदेश क्रमांक एल-29011/10/2008 (आई.आर.)(एम.) दि.15-7-08 के जरिये सम्प्रेषित रेफ्रेन्स को इसी अनुरूप उत्तरित किया जाता है कि हस्तगत रेफ्रेन्स में नियोजक धर्मवीर की मृत्यु रेफ्रेन्स होने से पहले ही हो जाने से अर्थात् मृत व्यक्ति के विरुद्ध रेफ्रेन्स हो जाने से कोई अनुतोष दिया जाना सम्भव नहीं है।

प्रकाश चन्द्र पगारीया, न्यायाधीश

नई दिल्ली, 12 सितम्बर, 2012

का.आ.3080.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स श्री स्टोन कम्पनी चेचट लाईम स्टोन, कोटा के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, कोटा के पंचाट (संदर्भ संख्या 4/2003) को प्रकाशित करती है जो केन्द्रीय सरकार को 9-7-2012 को प्राप्त हुआ था।

[सं. एल-29011/67/2002-आई आर (एम)]

जोहन तोपनो, अवर सचिव

New Delhi, the 12th September, 2012

S.O. 3080.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947) the Central Government hereby publishes the award (Ref. No. 4/2003) of the Central Government Industrial Tribunal/Labour Court, Kota now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Shree Stine Company Chechat Lime Stone (Kota) and their workman, which was received by the Central Government on 9-7-2012.

[No. L-29011/67/2002-IR (M)]

JOHAN TOPNO, Under Secy.

अनुबन्ध

न्यायाधीश, औद्योगिक न्यायाधिकरण, कोटा/केन्द्रीय/कोटा/  
राज./पीठासीन अधिकारी-श्री प्रकाश चन्द्र पगारीया,  
आर०एच०जे०एस० निर्देश प्रकरण क्रमांक: ओ.न्या.-4/2003

दिनांक स्थापित: 13/2/03

प्रसंग: भारत सरकार, श्रम मंत्रालय, नई दिल्ली के आदेश सं.  
एल. 29011/67/2002 (आईआर)(एम) दिनांक 4/2/03

निर्देश/विवाद अन्तर्गत धारा 10(1)(घ) औद्योगिक विवाद  
अधिनियम, 1947

मध्य

जनरल सेक्रेटरी, राष्ट्रीय मजदूर संघ, रामगंजमण्डी।

-प्रार्थी श्रमिक यूनियन

3628 67/13-13

एवं

मैसर्स श्री स्टोन कंपनी, चेचट जिला कोटा।

-अप्रार्थी नियोजक

उपस्थित :

प्रार्थी श्रमिक यूनियन की ओर से:- कोई उपस्थित नहीं

अप्रार्थी नियोजक की ओर से:- एकपक्षीय कार्यवाही

अधिनिर्णय दिनांक: 29/5/2012

अधिनिर्णय

भारत सरकार, श्रम मंत्रालय, नई दिल्ली के उक्त प्रासांगिक आदेश दि. 4/2/03 के जरिये निम्न निर्देश/विवाद, औद्योगिक विवाद अधिनियम, 1947 (जिसे तदुपरान्त "अधिनियम" से सम्बोधित किया जावेगा) की धारा 10 (1)(घ) के अन्तर्गत इस न्यायाधिकरण को अधिनिर्णयार्थ सम्प्रेषित किया गया है:-

"क्या राष्ट्रीय मजदूर संघ (इन्क) रामगंजमण्डी द्वारा प्रबन्धन मैसर्स श्री स्टोन कंपनी, लाईम स्टोन खदान मालिक, चेचट जिला कोटा (रा.ज.) से उसकी खदान में कार्यरत कर्मकारों के लिए वित्तीय वर्ष 2000-2001 के लिए 20 प्रतिशत बोनस भुगतान करने की मांग उचित एवं न्यायसंगत है? यदि हां तो सम्बन्धित कर्मकार कितने प्रतिशत बोनस भुगतान के हकदार हैं?"

2. निर्देश/विवाद, न्यायाधिकरण में प्राप्त होने पर पंजीबद्ध उपरान्त पक्षकारों को सूचना जारी की गयी।

3. प्रार्थी यूनियन की ओर से क्लेम स्टेटमेन्ट पेश किया गया जिसमें यह वर्णित किया गया कि प्रार्थी यूनियन, प्रार्थी श्रमिकों की एवं पंजीकृत चुनी हुई संस्था है जिसे श्रमिकों की मांगों के सम्बन्ध में मांगपत्र पेश कर वार्ता आदि करने का अधिकार प्राप्त है। अप्रार्थी के संस्थान में वर्ष 2000-01 में काफी उत्पादन हुआ व लाभ आदि काफी अर्जित किया। अप्रार्थी संस्थान में कार्यरत श्रमिक व कर्मचारी वर्ग में 20% की दर से बोनस दिये जाने का मांगपत्र प्रबन्धक को 13/2/02 को दिया जो मांगपत्र प्रदर्श 1 है। इसके बाद एक रिमाइंडर सहायक श्रम आयुक्त के यहां भी पेश किया गया जो प्रदर्श 2 है। समझौता अधिकारी के यहां प्रबन्धक बावजूद नोटिस के उपस्थित नहीं हुआ। प्रबन्धक का श्रमिकों के प्रति व्यवहार उपेक्षापूर्ण रहा है। इस मामले में भी कर्मकार वर्ग अप्रार्थी से वर्ष 2000-01 के लिए 20% की दर से बोनस प्राप्त करने के अधिकारी हैं, अतः क्लेम स्टेटमेन्ट के माध्यम से यही अनुतोष दिलाये जाने ही मांग की गयी है।

4. अप्रार्थी पर नियमानुसार तामील करवायी गयी, लेकिन वह बावजूद तामील के उपस्थित नहीं हुआ, अतः आदेशिका दि. 5/7/08 के अनुसार उसके विरुद्ध कार्यवाही एकपक्षीय का आदेश दिया गया। तत्पश्चात पत्रावली साक्ष्य प्रार्थी हेतु नियत की गयी एवं 14/10/10 तक साक्ष्य प्रार्थी हेतु अवसर दिये जाते रहे परन्तु प्रार्थी की ओर से कोई साक्ष्य पेश नहीं की गयी, अतः उस दिन प्रार्थी की साक्ष्य बन्द की गयी एवं पत्रावली बहस

अन्तिम हेतु नियत की गयी। सुनवाई तिथि 20/12/011 व 7/5/012 को भी प्रार्थी पक्ष की ओर से कोई प्रतिनिधि उपस्थित नहीं थे एवं ना ही आज की सुनवाई तिथि पर प्रार्थी या उसके कोई प्रतिनिधि उपस्थित हैं। अतः ऐसी परिस्थिति में पत्रावली का अवलोकन किया गया।

5. चूंकि प्रार्थी यूनियन को अपने क्लेम स्टेटमेन्ट में वर्णित तथ्यों को अपनी साक्ष्य से साबित करना था, किन्तु किसी प्रकार की कोई साक्ष्य दस्तावेजी या मौखिक प्रार्थी यूनियन की ओर से पेश नहीं हुई है, अतः ऐसी परिस्थिति में यह आसानी से कहा जा सकता है कि प्रार्थी यूनियन अपने क्लेम स्टेटमेन्ट में वर्णित तथ्यों को साक्ष्य से साबित करने में विफल रही है एवं इन परिस्थितियों में कोई अनुतोष की अधिकारिणी नहीं बनती है।

परिणामस्वरूप भारत सरकार, श्रम मंत्रालय, नई दिल्ली द्वारा अपनी उक्त प्रासांगिक अधिसूचना/ओडश सं. एल-29011/67/2002 (आर.आई.) (एम) दि. 4/2/03 के द्वारा सम्प्रेषित निर्देश (रेफ्रेन्स) को इसी अनुरूप उत्तरित किया जाता है कि इस मामले में प्रार्थी श्रमिक यूनियन उसके द्वारा प्रस्तुत क्लेम स्टेटमेन्ट में वर्णित तथ्यों को साक्ष्य से साबित करने में विफल रही है, अतः वह रेफ्रेन्स के संबंध में कोई अनुतोष प्राप्त करने की अधिकारिणी नहीं है।

प्रकाश चन्द्र पगारीया, न्यायाधीश

नई दिल्ली, 12 सितम्बर, 2012

का. आ.3081. -औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बीसीसीएल के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 2, धनबाद के पंचाट (आई डी संख्या 110/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12-09-2012 को प्राप्त हुआ था।

[सं. एल-20012/110/2004-आई.आर. (सी एम-1)]

अजीत कुमार, अनुभाग अधिकारी

New Delhi, the 12th September, 2012

**S.O. 3081.** -In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 110/2004) of the Central Govt. Industrial Tribunal-cum-Labour Court, No. 2, Dhanbad as shown in the Annexure, in the industrial dispute between the management of M/s. BCCL, and their workmen, received by the Central Government on 12-09-2012.

[No. I-20012/110/2004-IR (CM-I)]

AJEET KUMAR, Section Officer

## ANNEXURE

### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (No. 2) AT DHANBAD

#### PRESENT

Shri Kishori Ram, Presiding Officer

In the matter of an Industrial Dispute under Section 10(1) (d) of the I.D. Act. 1947

#### REFERENCE No. 110 of 2004

**PARTIES:** Employer in relation to the Management of Bhagabandh Colliery of M/s. B.C.C.L. and their workman.

#### APPEARANCES:

On behalf of the workman: Mr. M.M. Khan, Ld. Adv. On behalf of the Management: Mr. B.M. Prasad, Ld. Adv.

State : Jharkhand Industry : Coal

Dhanbad, Dated 09th August, 2012.

#### ORDER

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act., 1947 has referred the following dispute to this Tribunal *vide* their Order No. I-20012/110/2004-IR (C-I) dated 02-09-2004.

#### SCHEDULE

"Whether the action of the management of Bhagabandh Colliery of M/s. BCCL in dismissing Sri Baru Bauri from the services of the Company w.e.f. 20-7-02 is fair and justified? If not, to what relief is the concerned workman entitled?"

2. The case of the sponsoring union is that workman Baru Bauri was a permanent employee as Miner Loader of the Bhagaband Colliery. After his 25 days earned leave w.e.f. 13-09-2001 to 12-10-2001, he could not report for his duty due to his sickness but he informed the Management of his sickness on 12-10-2001 and of his treatment under a Government Doctor B.K. Singh of Jharkhand. Even after declaring him medically fit by the Attending Physician, though he reported for duty on 15-01-2001, yet he was not allowed duty till 01-03-2001 rather he was charge-sheeted for alleged absence from 13-10-2001 under clause 26-1-1 of the Certified Standing Order of the Company as per the Charge Sheet dtd. 01-03-2001. His reply to it was found unsatisfactory and an enquiry was ordered as per the letter no. 73 dtd. 10/11-4-2002. The workman participated and explained his aforesaid stand, alleging the charge-sheet was incorrect. The workman was illegally and retrospectively dismissed as per the dismissal order no. 1007

dtd. 19/24-7-2002, w.e.f. 20-07-2002, though it was illegally issued on 24-7-2002. He was charge sheeted for his absence from 13-10-2001, but the charge sheet was issued on 01-3-2002 without justifying its 4 1/2 months' delay and considering the financial loss of the workman.

Rejoinder in behalf of the workman deals with his claim for setting aside the chargesheet, and for his reinstatement with full back wages until its enforcement.

3. Whereas in a challenge to its maintainability in Law, the pleaded case of the Management is that no relationship of employer and employee ever exists at all so this is not an industrial dispute, because it has been raised after many years without any cause of action. Sri Baru Bauri was chargesheeted for his absenteeism from his duty since 13-10-2001, a misconduct under clause 26-1.1 of the Certified Standing Order as per the charge sheet No. 2386 dated 28-02-02/1-3-2002. He has submitted his reply to the charge sheet, but it was found unsatisfactory, so an enquiry was ordered by the Management. At notice of the enquiry, Sri Baru Bauri appeared in the Enquiry in which he was given full opportunity for his defence.

The charges of his wilful absence affecting the production is a misconduct. He is a very irregular workman as evident from record of absence, i.e., his working days 83, 20, 117 and 94 days in the years 1998, 1999, 2000 and 2001 respectively. Despite several times warning, he is a habitual absentee from duty. His regular wilfully and unauthorisedly absence from duty shows that he is not interested in performing his duty. Not turning up of an employee on duty over a considerable period legally renders his removable from rolls of the Colliery.

4. Further the management's pleading in its rejoinder is that the workman, the Miner Loader, had proceeded on leave w.e.f. 13-09-2001 to 12-10-2001 but since thereafter, he remained unauthorisedly absent from his duty amounting to the misconduct as per the chargesheet. After due enquiry, since the charges levelled proved against him, as he was a regular defaulter in attendance very poor for the last four years causing seriously heavy loss to the Management, he was dismissed from his services as the letter dated 19/24-07-2002. The chargesheet was legally issued without any malafide intention. He remained unauthorisedly absent from duty even after several warning. So he is not entitled to any relief.

#### FINDING WITH REASONING

5. In this Instant case, I find that since the Union Representative on his petition did not raise any objection to the fairness of the domestic enquiry by the Management, on consideration of the Management's documents (Ext. M-1 to M-7), it was held to be quite fair, proper and as

per the principle of natural justice as per order dtd. 25-10-2005 of the Tribunal. As such the case came up for hearing arguments on merits.

Meanwhile, petitioner Mathur Bauri on his petition dtd. 09-02-2012 with the photo copy of the Death Certificate of his deceased father Baru Bauri, his father being dead on 17-12-2010 has been substituted in place of his said deceased father as per order dated 09-2-2011 of the Tribunal, for his other legal heirs, i.e., his widow Kajali Devi, son Bajinath Bauri (37 years), and daughter Rita Kumari and Gita Kumari (28 and 29 years respectively) had submitted their on affidavit as no objection in favour of the aforesaid petitioner.

On consideration and appreciation of the materials, i.e., the Enquiry proceedings including Enquiry Report (Ext. M-4) and the dismissal order of the Project Officer concerned (Ext. M-4) and the dismissal order of the Project Officer concerned (Ext. M-7) under Sec. 11 A of the I. D. Act., I find the following facts :

(i) The workman Baru Bauri had represented/stated not to have attended on duty since 13-09-2001 on account of his illness and under treatment of the Govt. Doctor.

(ii) The Chargesheet dtd. 26-02-2002 (Ext. M. 1) does not refer to any previous such conduct of absenteeism.

For the aforesaid reasons, the punishment of the Workman-Baru Bauri (who died on 17-12-2010), by way of dismissal from his service for his aforesaid unauthorised absenteeism appears to be highly shocking as well as disproportionate to the nature of his misconduct of absenteeism. Hence, it would be proper to hold that the dismissal of the workman is liable to be unjustified and accordingly it is liable to set aside.

In view of the aforesaid findings, it is awarded that the action of the Management of Bhagabandh Colliery of M/s. BCCL in dismissing Baru Bauri, now deceased (the workman) from the service of the Company w.e.f. 27-07-2002 is unfair and unjustified. Since the workman died on 17-02-2010 during the pendency of the Reference and his son Mathur Bauri has been substituted in his place. Were the workman alive, he would had been reinstated in the service of the Company but without wages. Under these circumstances, the petitioner Mathur Bauri as the legal heir of his deceased workman would be entitled to all the financial benefits of his deceased father Baru Bauri from the Management of Bhagabandh Colliery of M/s. B.C.C.L.

The Management is directed to implement the award within two months from the date of its receipt after its publication in the Gazette of India.

KISHORI RAM, Presiding Officer

नई दिल्ली, 12 सितम्बर, 2012

का.आ.3082.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी सी सी एल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं. 2, धनबाद के पंचाट (आई डी संख्या 66/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12-09-2012 को प्राप्त हुआ था।

[सं. एल-20012/104/2007-आई आर (सी एम-1)]

अजीत कुमार, अनुभाग अधिकारी

New Delhi, the 12th September, 2012

**S.O. 3082.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award Ref. 66/2007 of the Cent. Govt. Indus. Tribunal No 2, Dhanbad as shown in the Annexure, in the industrial dispute between the management of M/s. BCCL, and their workmen, received by the Central Government on 12-09-2012.

AJEET KUMAR, Section Officer

[No.-L-20012/104/2007-IR(CM-I)]

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (No. 2) AT DHANBAD PRESENT

Shri Kishori Ram, Presiding Officer.

In the matter of an Industrial Dispute under Section 10(1)(d) of the I.D. Act, 1947

#### REFERENCE No. 66 of 2007

**PARTIES :** Employer in relation to the management of Sudamdih Coal Washery of M/s. BCCL and their workman.

#### APPEARANCES :

On behalf of the workman:	None
On behalf of the Management:	Mr. D.K. Verma, Ld. Adv.

State : Jharkhand                      Industry : Coal

Dated, Dhanbad, the 31st July. 12

#### ORDER

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1) (d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal vide their Order No. L-20012/104/2007-IR (CM-I) dated 25-10-2007.

#### SCHEDULE

“Whether the action of the Management of Sudamdih Coal Washery of M/s. BCCL in retiring Sh. Birbal Manjhi, General Mazdoor, S/o Late Robi Manjhi, w.e.f. 30-06-2005 is justified and legal? If not, to what relief is the concerned workman entitled?”.

2. None appeared for the Union/workman Birbal Manjhi nor written statement filed on his behalf despite four Registered notices having been issued to the Joint Secretary of the Sponsoring Union on his address noted in the Reference. But Mr. D.K. Verma, the Ld. Advocate for the Management is present.

The perusal of the case record reveals the case has been pending all along for appearance as well as for written statement of workman, for which several notices, all registered dated 10-1-2008, 20-03-2008, 9-12-2010, 10-4-2011, 20-7-2011 and 13-10-2011 were issued to the Joint Secretary of the Sponsoring Union on the address of the Union, but none of them returned unserved, so despite full knowledge of the case, neither the Union Representative concerned nor the workman appeared or filed his written statement since 19-3-2008. The conduct of the Union Representative as well as of the workman shows their unwillingness to pursue the case. Hence proceeding with the case for uncertainty is unwarranted. Therefore, the case is closed and accordingly an order is passed as non-existent of Industrial dispute.

KISHORI RAM, Presiding Officer

नई दिल्ली, 12 सितम्बर, 2012

का.आ.3083.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी सी सी एल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं. 2, धनबाद के पंचाट (आई डी संख्या 114/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12-09-2012 को प्राप्त हुआ था।

[सं. एल-20012/136/2003-आई आर (सी एम-1)]

अजीत कुमार, अनुभाग अधिकारी

New Delhi, the 12th September, 2012

**S.O.3083.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 114/2003) of the Central Government Industrial No. 2, Dhanbad as shown in the Annexure, in the Industrial Dispute between the management of M/s. BCCL and their workman, received by the Central Government on 12-09-2012.

[No. L-20012/136/2003-IR(CM-I)]

AJEET KUMAR, Section Officer

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (No. 2) AT DHANBAD PRESENT

Shri Kishori Ram, Presiding Officer

In the matter of an Industrial dispute under Section 10(1)(d) of the I.D. Act, 1947

**REFERENCE No. 114 of 2003**

**Parties :** Employers in relation to the management of Hurriladih Colliery under Kustore Area of M/s BCCL

**APPEARANCES :**

On behalf of the workman : Mr. Kameshwar Pd.  
Ld. Advocate;  
On behalf of the management : Mr. U.N. Lal, Ld.  
Advocate;  
State : Jharkhand Industry : Coal

Dated, Dhanbad, 13th August, 2012.

**ORDER**

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal vide their Order No. L-20012/136/2003-IR (C-I) dated 10-11-2003.

**SCHEDULE**

“Whether the action of the management of Horladih Colliery of M/s. BCCL in dismissing Shri Shiv Lal Besra, M/Loader w.e.f. 25-10-02 is fair and justified? If not, to what relief is the said workman entitled.”

2. The case of workman Shiv Lal Besra as sponsored by the Union concerned is that he was a permanent M/Loader of the Horladih colliery, He was chargesheeted as per the charge sheet dt. 18-2-97. The domestic enquiry was conducted into the chargesheet. In course of the enquiry, he appeared on 10-04-2002 as per the 3rd Notice dated 14-3-2002 he appeared before the Enquiry Officer, but since the Enquiry Officer was not in the office, so he (workman) by his letter on the same day requested him to fix the next date for conducting enquiry, but its date was not communicated to him, and he got 2nd Show Cause notice enclosed with the ex-parte enquiry report dated 8-6-2002. He represented to the Show Cause about the ex-parte enquiry dt. 25-3-2002 quite fake and fabricated with request to the Disciplinary Authority for a fresh enquiry into the matter of chargesheet. Neither his reply was considered nor it was further communicated to him. In course of the conciliation proceeding in the Industrial Dispute raised by the Union before the ALC (C), Dhanbad II, his dismissal order was given by the management which was illegal and arbitrary, as the dismissal order was dated 25-10-2002 one day after the registration of the I.D. on 24-10-2002. It has neither proper home address nor date of the signature of the Disciplinary Authority. The dismissal order had illegally retrospective effect from 28-4-2003. As the entire enquiry proceeding was quite unfair, improper and against the principle of natural justice, so his dismissal was unjustified and illegal. Despite ample opportunity, no

rejoinder on behalf of the workman filed by the Union concerned.

3. Whereas the contra pleaded case of the Management with categorical denials is that Ex-employees Shiv Lal Besra was unauthorisidly absenting w.e.f. 22-4-1994, for which he was issued the charge sheet dtd. 18-2-1997 under clause 26-1-1 of the Certified Standing Order of the Company by the Disciplinary Authority. But despite the chargesheet having been served upon him, he did not reply to it. So the Disciplinary Authority as per the letter dtd. 7/9-2-2002 appointed Sri P.K.Srivastava, Dy. Personnel Manager, Bhalgora Project as Enquiry Officer, and Sri A.K. Jha as Management Representative for an enquiry. In spite of the Notices dated 23rd Feb., 4th and 14th March, 2002 to the workman for the enquiry on 4th, 14th and 25th March, 2002, when the deligent workman did not appear in the enquiry, it was proceeded ex-parte against him. The Management Representative got his statement recorded. After holding the enquiry, the Enquiry Officer submitted his Enquiry Report along with the enquiry proceeding to te Disciplinary Authority, who sent the copy of the Enquiry Report to the workman for his reply within 15 days as per the letter No. 11229 dt. 16/17-7-2002. On the basis of the finding of the Enquiry Officer as per the record, the disciplinary Authority decided to impose penalty of dismissal upon the workman. He had got also approval of the General Manager, Kustore Area, as per the Note Sheet dt. 29/21-8-2002 on 17-09-2002. Having found the written reply of the workman unsatisfactory, the Disciplinary Authority imposed upon him the punisment of his dismissal; accordingly as per the letter dt. 29-10-2002 of the Project Officer/Agent, Hurriladhi Colliery, the workman was dismissed with immediate effect. The workman was simultaneously instructed to apply in Form 'I' for his gratuity and PF refund. The management had afforded him reasonable opportunity for his defence as per the rule of natural justice. So the action of Management for his dismissal was just, fair and legally viable. The workman is not entitled to any relief.

The Management in its rejoinder pleaded that the workman did not avail of the opportunity for the reason known to him.

**FINDING WITH REASONING**

4. In this case, on the exparte examination of MWI A.K. Jha at preliminary point, the Tribunal as per order dated ) 2-8-2005 held the domestic enquiry against the workman unfair, improper and not in consonance with the Principle of natural justice.

Therefore, the Management examined MWI Anirud Jha, Dy. Personnel Manager of the Colliery for on its behalf and WWI Shivalal Besra, the workman himself examined for the sponsoring union.

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5. On consideration of the materials as produced on merit on behalf of the both the parties I find that according to the workman (WWI on merit) the workman Shiv Lal Besra on receipt of 3rd Notice appeared on 25-3-2002, and there was no enquiry proceeding, for which he got date 10-04-2002, but on the latter date the Enquiry Officer was not present so he gave the information of his presence in the office of the Enquiry Officer as per Ext. W. 1, thereafter he was not informed of the date of the Enquiry, and he got the Second Cause Notice related to the exparte Enquiry to his utter surprise; he also promptly submitted his reply through Regd. post No. 5917 dtd. 1-10-2002 marked as Ext. W. 2. The plea of the workman is that due to illness of T.B. he got absent from his duty since 22-4-1994, for which he was chargesheeted in the year 1997, though he got his treatment conveniently the Local Private Doctors (Ext. W. 3 series, three Medical Certificates).

On the other hand, upholding the misconduct of unauthorised absenteeism of the workman w.e.f. 22-4-1994 and holding the Enquiry in the chargesheet dtd. 18-2-1997 (Ext. M. 1), M.W. 1 Anirudh Jha. Dy. Personnel Manager (on merit) has overstressed the previous absenteeism of the workman as a habitual absentee as per the Attendance Registers for the last three year 1994, 1993 and 1992 (Ext. M. 2 to 4 series respectively) but his such evidence devoid of any pleading is absolutely inadmissible in the eye of the Law.

6. On appreciation of materials on evidence, I do find that the punishment of dismissal to workman Shiv Lal Besra for a single proved misconduct of absenteeism from duty since 22-4-1994 under clause 26-1-1 of the Certified Standing Order by the Management is too harsh and disproportionate to the nature of it, hence the dismissal order dt. 25-10-2002 (Ext. M. 5) as passed by the Competent Authority is unsustainable legally.

In result, the Reference is responded in its terms that the dismissal of workman Shiv Lal Besra, M/Loader from the services of Hurlidih Colliery, w.e.f. 25-10-2002 by the management of Kustore Area neither just nor legal nor justified. So far as the relief of the workman is concerned, he is entitled only to reinstatement in his service but without back wages within two months from the receipt of its publication in the Gazette of India by the Central Government, as the workman had filed highly belated three Medical Certificates dtd. 6-3-1996, 6-2-1999 and 25-3-2002 (Ext. W. 3 series) for his alleged sickness/treatment.

KISHORI RAM, Presiding Officer

नई दिल्ली, 12 सितम्बर, 2012

का.आ.3084.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बीसीसीएल के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं. 2,

धनबाद के पंचाट (आई डी संख्या 83/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12-09-2012 को प्राप्त हुआ था।

[सं. एल-20012/56/2004-आई आर (सीएम-1)]

अजीत कुमार, अनुभाग अधिकारी

New Delhi, the 12th September, 2012

**S.O. 3084.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 83/2004) of the Central Government Industrial Tribunal No. 2, Dhanbad as shown in the Annexure in the Industrial Dispute between the management of M/S BCCCL and their workman, which was received by the Central Government on 12-09-2012.

[No. L-20012/56/2004-IR(CM-1)]

AJEET KUMAR, Section Officer

## ANNEXURE

### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (No. 2) AT DHANBAD

#### PRESENT

Shri Kishori Ram, Presiding Officer

In the matter of an Industrial Dispute under Section 10(1)(d) of the I.D. Act., 1947

**Reference No. 83 of 2004.**

**PARTIES :** Employer in relation to the management of Kustore Area of M/s BCCCL and their workman.

#### APPEARANCES :

On behalf of the workman: Mr. B.N. Singh  
Rep. of the workman.

On behalf of the Management: Mr. U.N. I al, Ld.  
Adv.

State : Jharkhand Industry: Coal

Dated, Dhanbad, the 2nd August, 2012

#### ORDER

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal vide their Order No. L-20012/56/2004-IR(C-I) dated 28-06-2004.

#### SCHEDULE

"Whether the action of the management of Kustore Colliery under Kustore Area of M/s BCCCL P.O. Kustore, Distt. : Dhanbad in not providing employment to the dependant Son Sri Raju Bhuia of

Late Govind Bhuia workman of Kustore Area, as per the provision of N.C.W.A. is proper and justified? If not, to what relief is the said dependant son of the deceased workman entitled”.

2. None appeared either for the Union or for the petitioner nor any witness for the evidence of the workman produced. None appeared for the Management.

Perused the case record, I find:- that the case has been pending for the evidence of the workman since 07-03-2006, for which several notices including last four Registered notices were issued to the Secretary of the Union concerned on its address noted in the Reference on 08-11-2010, 09-11-2011, 10-01-2012, and 23-05-2012. Though two affidavits of workman Raju Bhuia for his deposition dtd. 29-12-2010 and 08-06-2011 filed, he did not appear for his cross-examination since thereafter. The conduct of the Representative for the Union as well as that of the workman clearly indicates the loss of their interest to proceed with the case. Under these circumstances proceeding with the case for uncertainty is unwarrantedly carrying the burden of the case. Hence the case is closed; and accordingly an order of non existent of Industrial dispute is passed.

KISHORI RAM, Presiding Officer

नई दिल्ली, 13 सितम्बर, 2012

का.आ.3085.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस.सी.सी.एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, गोदावरीखानी के पंचाट (एलसीआईडी संख्या 17/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13-09-2012 को प्राप्त हुआ था।

[सं. एल-22013/1/2012-आई आर (सी-II)]

बी.एम. पटनायक, डेस्क अधिकारी

New Delhi, the 13th September, 2012

S.O. 3085.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal-cum-Labour Court, Godavarikhani (it/ID/17/2007) as shown in the Annexure in the Industrial Dispute between the management employers in relation to the of SCCL and their workman, which was received by the Central Government on 13-09-2012.

[No. L-22013/1/2012-IR(C-II)]

B.M. PATNAIK, Section Officer

## ANNEXURE

### BEFORE THE CHAIRMAN, INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT GODAVARIKHANI

PRESENT: SRIM.A. SAREEF, B.Sc., LL.B,

I ADDITIONAL SESSIONS JUDGE,  
KARIMNAGAR, FAC: Chairman,  
Industrial Tribunal-cum-Labour Court,  
Godavarikhani.

Tuesday, the 14th day of August, 2012

INDUSTRIAL DISPUTE No. 17 OF 2007

#### BETWEEN:-

Pulipaka Rajam, Ex-Coal Filler, E.C. No. 0911536,

S/o Narasaiah, Aged about 44 years,

C/o Sri K. Sudhakar Reddy, Advocate,

Q.No. D-322, Gandhinagar,

P.O. Godavarikhani,

Dist: Karimnagar-505 209(A.P.)--- Petitioner

AND

1. The Colliery Manager, S.C.Co., Ltd.,  
GDK No. 6 Incline, P.O: Godavarikhani, Dist:  
Karimnagar-505 209 (A.P.)
2. The General Manager,  
S.C.Co., Ltd., Ramagundam Area I, P.O:  
Godavarikhani, District Karimnagar-505 209 (A.P.);
3. The Chairman & Managing Director,  
S.C.Co. Ltd., P.O. Kothagudem,  
District: Khammam. —Respondents.

This case is coming on 21.07.2012 before me for final hearing in the presence of Sri K.S. Reddy, Advocate for the petitioner and of Sri D.K. Murthy, Advocate, for the Respondents; and having been heard and having stood over for consideration till this day, the Court delivered the following :—

#### AWARD

1. This petition is filed U/Sec. 2-A-(2) of Industrial Disputes Act, 1947 to reinstate the petitioner into service from setting aside the dismissal order dt. 06-04-2003.

2. The averments of the petition are that the petitioner was appointed as 'Badili Filler' by the respondent company in January, 1984 and he was promoted as 'Coal Filler' w.e.f. 1-4-1989, as per office order dt. 30-09-1989 the petitioner was confirmed as 'Coal Filler'. From 1984 till 2000 the petitioner put more than 100 physical musters. During the year 2000 his health was not good, so, he started taking permission, however, he put 160 musters in the year 2000.

In the year 2001 his health condition deteriorated so he underwent treatment in Respondent's company hospital and private hospitals. The wife of petitioner also fell seriously ill and was admitted in hospital, however, in the year 2002 the petitioner improved his attendance. In the year 2001, the first respondent issued charge sheet under company's standing order No. 25.25 to the petitioner alleging that "for your habitual absence from duty without sufficient cause during the year 2001". The petitioner gave explanation but the respondent not satisfied with the explanation, held domestic enquiry, in which the petitioner participated. As per the respondent's direction the petitioner improved his musters up to 77 in the year 2002 but he again became ill, so, he could not put 20 musters p.m. from July, 2002. The second respondent without taking all these facts into consideration dismissed the petitioner from service w.e.f. 08-4-2003. During the period of six months observation also the petitioner fell ill. So he could not comply the require musters. The capital punishment of removal from service is not proportionate to the misconduct of the petitioner, as such the petitioner prayed to reinstate him into service by setting aside the dismissal order with continuity of service and all other consequential attendant benefits and with full back wages.

3. The second Respondent filed counter admitting the fact that the petitioner was appointed into service of respondent's company on 20.01.1984 as Badli filler. From 2001 to 2003 in no year the petitioner put in 190 musters per year, so, he was charge sheeted. If the petitioner and his wife fell ill it was open for the petitioner to have taken into treatment by reporting sick in colliery hospital and he would have obtained concerned leave also but the petitioner absented himself without informing any fact to the company as such a domestic enquiry was conducted and as the charges against the petitioner was proved he was dismissed from service. Therefore, the respondent prayed to dismiss the petition.

4. From the above pleadings following issues were framed:-

(1) Whether the domestic enquiry was not conducted fair and properly and it is perverse and bias.

(2) Whether fair opportunity was not given to the petitioner to defend himself.

(3) Whether the proceedings recorded in English language not known to the petitioner as he is an illiterate by obtaining the x-marks under the threat of insubordination.

5. However, on 14-11-2011 the learned advocate for the petitioner filed memo U/s. 11-A of I.D. Act, that he is not questioning the domestic enquiry conducted by the respondent. Thereafter, this petition was posted for arguments from both sides.

6. Heard both sides.

7. The point for consideration is:

Whether the petitioner can be reinstated into service by setting aside the dismissal order and whether the punishment imposed is disproportionate to the misconduct?

#### POINT:

8. The learned advocate for the petitioner contended that because his ill-health ever since 2002 the petitioner put less musters and even after the petitioner was given a chance to improve his musters, during that period he fell ill, so, he could not fulfill his musters. Further, the learned advocate for the petitioner contended that the charge against the petitioner is of absenteeism and for the purpose the petitioner would not have been inflicted with capital punishment of dismissal from service. Basing on his contention he relied on a decided case reported in **2002 (1) ALD 314 of A.P.**, where it was held that "it is a case of imposing the capital punishment of dismissal from service for the alleged absenteeism and without observing basic principles of natural justice is not proper". He referred another decided case reported in **1998 (LLN) 303 Scooter India Ltd., Vs. Labour Court, Lucknow** where it was held that "re-instatement of employee with 75% back wages by the Labour Court is within its powers, in fact wide powers are vested in Labour Court, Labour Court can tamper justice with mercy and gave an opportunity to an earning work man to reform himself." He further relied on a decision reported in **2002(1) ALT 151 D.B.-BHEL vs PO Additional Industrial Tribunal**, wherein it was held that "the labour Court can interfere with the punishment if it is disproportionate to proved guilt." He also relied on another decision reported in **2009-IV-ILLJ, Pages 672 n 681 between Chairman-cum-Managing Director, COAL India Limited & Another**, where the Labour Court granted re-instatement to the petitioner with all sorts of benefites.

9. Basing on the above decided cases the learned advocate for the petitioner contended that the punishment imposed on the petitioner is disproportionate, in fact it is harsh and equal to taking away livelihood from the petitioner and his family.

10. In reply to this the learned advocate for the respondents contended that if the petitioner fell ill he would have reported ill in the SCC hospital and he would have obtained medical leaves and other leaves whatever the petitioner is entitled, but admittedly the petitioner's absence is un-authorised therefore, his dismissal is quite reasonable, for which he relied on a decision reported in **2002(1) ALD 314 of A.P. High Court**, where it was held that "termination from the service on the ground of continuous absence from duty and such termination cannot be challenged." The

facts of this case are different from the facts in the given case, so, the decided cases submitted by the petitioner are well applicable to this case as held in the case referred by the respondent, the petitioner was not absented completely but for one year he was absented but that to not completely as he put some musters in the year 2002. In any case, the punishment imposed on the petitioner is very harsh and disproportionate as such the same is liable to be set aside.

11. In the result, this petition is allowed, Accordingly the dismissal order dt. 06-04-2003 (Ex. M. 9) No. RGI/PER/S/46/1693 is hereby set aside. The respondents are directed to reinsated the petitioner into service with countinuity of service with all consequential attendant benefits but without back wages. The respondents to pay a cost of Rs. 2,000 to the petitioner.

Dictated to the P.A., transcribed by him, corrected and pronounced by me in Open Court, on this the 14th day of August, 2012.

M.A. SHAREEF, Additional Sessions Judge

#### APPENDIX OF EVIDENCE

#### WITNESSES EXAMINED

For Workman:- For Management :-  
-Nil- -Nil-

#### EXHIBITS

For workman:

Ex. W-1	-	Pay Slip for the month of 12/1994
Ex. W-2	-	Pay Slip for the month of 12/1995
Ex. W-3	-	Pay Slip for the month of 11/1996
Ex. W-4	-	Pay Slip for the month of 11/1997
Ex. W-5	-	Pay Slip for the month of 11/1998-
Ex. W-6	-	Pay Slip for the month of 11/1999

For Management:-

Ex. M-1	Dt	30-01-2002	Charge sheet
Ex. M-2	Dt	11-02-2002	Reply to the charge sheet
Ex. M-3	Dt	10-03-2002	Enquiry notice
Ex. M-4	Dt	13-03-2002	Enquiry proceedings
Ex. M-5	Dt	21-03-2002	Enquiry report
Ex. M-6	Dt	02-05-2002	Show cause notice
Ex. M-7	Dt	10-05-2002	Mercy petetion sub- mitted to the respondent
Ex. M-8	Dt	05-07-2002	Office order (letter issued

to the petitioner by respondent for giving further ropportunity to improve attendance)

Ex. M-9 Dtd. 06-04-2002 Office order-Dissmissal order.

नई दिल्ली, 17 सितम्बर, 2012

का.आ.3086.—केन्द्रीय सरकार संतुष्ट हो, जाने पर कि लोकहित में ऐसा करना अपेक्षित था, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) का धारा 2 के खंड (ढ़) के उप-खंड; (vi) के उपबंधों के अनुसरण में भारत सरकार के श्रम और रोजगार मंत्रालय की अधिसूचना संख्या का.आ. दिनांक 20-04-2012 द्वारा बैंकिंग उद्योग जो कि औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की प्रथम अनुसूची की प्रविष्टि 2 में शामिल है, को उक्त अधिनियम के प्रयोजनों, के लिए दिनांक 20-4-2012 से छः मास की कालावधि के लोक उपयोगी सेवा घोषित किया था;

और केन्द्रीय सरकार की राय है कि लोकहित में उक्त कालावधि को छः मास की और कालावधि के लिए बढ़ाया जाना अपेक्षित है;

अतः, अब, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) का धारा 2 के खंड (ढ़) के उप-खंड; (vi) के परन्तुक द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार उक्त उद्योग को उक्त अधिनियम के प्रयोजनों के लिए दिनांक 20-10-2012 से छः मास की कालावधि के लिए लोक उपयोगी सेवा घोषित करती है।

[सं.एस-11017/5/97-आई आर(पी एल)]

चन्द्र प्रकाश, संयुक्त सचिव

New Delhi, the 17th September, 2012

S.O. 3086.— whereas the Central Government having been satisfied that the public interest so requires that in pursuance of the provisions of sub-clause (vi) of the clause (n) of Section 2 of the Industrial Disputes Act, 1947 (14 of 1947), declared by the Notification of the Government of India in the Ministry of Labour and Employment dated 20-04-2012 the service in Banking Industry which is covered by item 2 of the First Schedule to the Industrial disputes Act, 1947 (14 of 1947) to be a Public Utility Service for the purpose of the said Act, for a period of six months from the 20th April, 2012.

And whereas, the Central Government is of opinion that public interest requires the extension of the said period by a further period of six months.

Now, therefore, in exercise of the powers conferred by the proviso to sub-clause (vi) of clause (n) of Section 2 of the Industrial Disputes Act, 1947, the Central Government hereby declares the said industry to be a Public Utility Service for the purposes of the said Act, for a period of six months with effect from the 20th October 2012.

[No. S.-11017/5/97-IR(PL)]

CHANDRA PRAKASH, Jt. Secy.

3628 57/13-15

नई दिल्ली, 18 सितम्बर, 2012

का.आ.3087.—जबकि फेंच मोटर कार कंपनी लिमिटेड कोड संख्या डब्ल्यूबी/308, कोलकाता, पश्चिम बंगाल क्षेत्र के अंतर्गत (एतदुपरान्त प्रतिष्ठान के रूप में संदर्भित) ने कर्मचारी भविष्य निधि एवं प्रकीर्ण उपबंध अधिनियम, 1952 (1952 का 19) (एतदुपरान्त अधिनियम के रूप में संदर्भित) की धारा 17 की उप-धारा (1) के खंड (क) के अंतर्गत भारत सरकार द्वारा प्रदान की गयी छूट को रद्द करने हेतु आवेदन किया है।

2. जबकि उक्त प्रतिष्ठान को उक्त अधिनियम के खण्ड 17 (1) (क) के अंतर्गत दिनांक 01-04-1954 से छूट प्रदान करते हुए दिनांक 23 दिसम्बर, 1981 को एक अधिसूचना प्रकाशित की गयी थी।

3. और जबकि अब सरकार के ध्यान में यह बात आयी है कि इस प्रतिष्ठान ने 22-08-2011 से अपनी छूट अभ्यर्पित कर दी है और अब इसमें कोई क्रियाकलाप नहीं हो रहा है।

4. अतः, अब, केन्द्र सरकार, एतद्वारा उक्त अधिनियम की धारा 17 की उप-धारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए 22-08-2011 से उक्त प्रतिष्ठान को प्रदान की गयी छूट को रद्द करती है।

[सं. एस-35017/2/2012-(एसएस-II)]

सुभाष कुमार, अवर सचिव

New Delhi, the 18th September, 2012

S.O.3087.—Whereas M/s. French Motor Car Co. Limited [under Code No. WB/308 in Kolkata, West Bengal region] (hereinafter referred to as the establishment) has applied for cancellation of exemption granted by Government of India under clause (a) of sub-section (1) of Section 17 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952) (hereinafter referred to as the Act).

2. Whereas a notification dated 23rd December, 1981 granting exemption w.e.f 01-04-1954 under Section 17(1)(a) of the said Act to the said establishment was published in the Gazette of India.

3. And whereas, now it has come to the notice to the Government that the establishment has surrendered its exemption with effect from the 22-08-2011 and it is no longer carrying on any activity.

4. Now, therefore, in exercise of the powers conferred by sub-section (4) of Section 17 of the said Act, the Central Government hereby cancels the exemption granted to the said establishment with effect from the 22-08-2011.

[No. S-35017/2/2012-SS-II]

SUBHASH KUMAR, Under Secy.

नई दिल्ली, 18 सितम्बर, 2012

का.आ.3088.—जबकि मैसर्स बिरला सन लाईफ इंशुरेन्स कं. लि. (महाराष्ट्र क्षेत्र में कोड संख्या एमएच/211039 के अंतर्गत) (एतदुपरान्त प्रतिष्ठान के रूप में संदर्भित) ने कर्मचारी भविष्य निधि और प्रकीर्ण उपबंध अधिनियम, 1952 (1952 का 19) (एतदुपरान्त अधिनियम के रूप में संदर्भित) के अंतर्गत निर्मित कर्मचारी भविष्य निधि योजना, 1952 (एतदुपरान्त योजना के रूप में संदर्भित) के पैरा 27 क के अंतर्गत छूट के लिए आवेदन किया है।

2. और जबकि केन्द्रीय सरकार के मत में, अंशदान की दरों के संबंध में उक्त प्रतिष्ठान के भविष्य निधि-नियम उक्त अधिनियम की धारा 6 में विनिर्दिष्ट नियमों की तुलना में कर्मचारियों के लिए कम उपयुक्त नहीं हैं और कर्मचारी उक्त अधिनियम अथवा योजना के अंतर्गत सदृश स्वरूप के किसी अन्य प्रतिष्ठान में कर्मचारियों के संबंध में दी जाने वाली अन्य भविष्य निधि प्रसुविधाओं का भी लाभ उठा रहे हैं।

3. अतः अब उक्त योजना के पैरा 27क के द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए इस संबंध में समय-समय पर विनिर्दिष्ट शर्तों के अधधीन, केन्द्रीय सरकार उक्त प्रतिष्ठान को 01-04-2010 से अगले आदेश/अधिसूचना जारी होने तक मैसर्स बिरला सन लाईफ इंशुरेन्स कं. लि., अधिकारी भविष्य निधि के नियम 2(viii) के अंतर्गत परिभाषित श्रेणी कर्मचारियों को छूट प्रदान करती है।

4. 16-11-2007 तथा 31-03-2010 के मध्य की अवधि के संबंध में छूट प्रदान करना अभी भी सरकार के विचाराधीन है। ईपीएफओ को इस प्रतिष्ठान के खिलाफ कोई अवपीड़क कार्रवाई न करने का निदेश दिया जाता है जब तक कि इस मामले में अंतिम निर्णय न लिया जाए।

[सं. एस-35015/12/2011-एसएस-II]

सुभाष कुमार, अवर सचिव

New Delhi, the 18th September, 2012

S.O. 3088.—Whereas M/s Birla Sun Life Insurance Company Ltd., (under Code No. MH/211039 in Maharashtra Region) (hereinafter referred to as the establishment) has applied for exemption under para 27A of the Employees Provident Funds Scheme, 1952 (hereinafter referred to as the Scheme) framed under the Employees' Provident Funds and Miscellaneous Provisions Act, 1952, (No. 19 of 1952) (hereinafter referred to as the Act).

2. And whereas in the opinion of the Central Government, the rules of the provident fund of the said establishment with respect to the rates of contribution are not less favourable to employees therein than those specified in Section 6 of the said Act and the employees are also in enjoyment of other provident fund benefits provided under the said Act or under the Scheme, 1952 in relation to the employees in any other establishment of similar character.

3. Now, therefore, in exercise of the powers conferred under paragraph 27A of the said Scheme and subject to the conditions specified in this regard from time to time, the Central Government hereby exempts the class of employees defined under Rule 2(viii) of M/s. Birla Sun Life Insurance

Company Ltd., Officers Provident Fund w.e.f. 01-04-2010 until further order/notification.

4. As regards the period between 16-11-2007 and 31-03-2010, the grant of exemption is still under consideration of the Government. EPFO is directed not to take any coercive action against the establishment till such time a final decision is conveyed in the matter.

[No. S-35015/12/2011-SS-II]

SUBHASH KUMAR, Under Secy.

नई दिल्ली, 18 सितम्बर, 2012

का.आ.3089.—राष्ट्रपति, श्री लाल चंद डे को, 07-09-2012 (A/N) से केन्द्रीय सरकार औद्योगिक न्यायधीकरण-सह श्रम न्यायालय, गुवाहाटी, के पीठासीन अधिकारी के रूप में 65 वर्ष की आयु पूरी होने अर्थात् 31-12-2015 तक अथवा अगले आदेशों तक, जो भी पहले हो, नियुक्त करती है।

[सं. ए-11016/06/2011-सी एल एस-II]

अजय जोशी, अवर सचिव

New Delhi, the 18th September, 2012

S. O. 3089.—The President is pleased to appoint Shri Lal Chand Dey as Presiding Officer of the Central Government Industrial Tribunal-cum-Labour Court, Guwahati w.e.f. 07-09-2012 (A/N) for a period upto 31-12-2015 i.e. till attaining the age of 65 years or until further orders, whichever is earlier.

[No. A-11016/06/2011-CLS-II]

AJAY JOSHI, Under Secy.

नई दिल्ली, 18 सितम्बर, 2012

का.आ.3090.—केन्द्र सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 (यथासंशोधित 1987) के नियम 10 के उप-नियम (4) के अनुसरण में, श्रम और रोजगार मंत्रालय के प्रशासकीय नियंत्रणाधीन निम्नलिखित कार्यालय को, जिसके न्यूनतम 80 प्रतिशत कर्मचारियों ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है, एतद्वारा अधिसूचित करती है :—

उप-क्षेत्रीय कार्यालय, कर्मचारी राज्य बीमा निगम, रोहिणी

[सं. ई-11017/1/2006-रा.भा.नी.]

चन्द्र प्रकाश, संयुक्त सचिव

New Delhi, the 18th September, 2012

S.O. 3090.—In pursuance of Sub-Rule (4) of Rule 10 of the Official Language (Use for official purposes of the Union) Rules, 1976 (as amended 1987) the Central Government hereby notifies following office under the administrative control of the Ministry of Labour and Employment, at least 80% Staff whereof have acquired working knowledge of Hindi :—

Sub-Regional Office, Employees'  
State Insurance Corporation, Rohini

[No. E-11071/1/2006-RBN]

CHANDRA PRAKASH, Jt. Secy.